

SEWAGE AND ANNEXATION AGREEMENT
BETWEEN
CITY OF EVERETT
AND
SILVER LAKE WATER AND SEWER DISTRICT

TABLE OF CONTENTS

RECITALS.....	1
1. DEFINITIONS.....	2
2. TERM OF AGREEMENT.....	6
3. PERMISSION TO DISCHARGE SEWAGE / CONNECTION POINTS.....	6
A. Connection Points.....	6
B. Operation and Maintenance of Connection Points.....	6
C. Connection Point Flow Monitoring.....	6
4. DISTRICT CAPACITY RIGHTS	7
A. Grant of District Capacity Rights	7
B. Everett Capacity Facilities	8
C. District Sewage Flows in Excess of District Capacity Rights	8
(1) Remedial Measures.....	8
(2) Everett Options	8
(a) Moratorium on New Tributary Connections	8
(b) Forced Purchase of Additional Capacity Rights	8
(c) Facility Improvement.....	9
(d) Refusal to Accept Sewage.....	9
(3) Excess Flow Indemnity	9
D. Everett Capacity Facilities Insufficient for District Capacity Rights	9
(1) Remedial Measures.....	9
(2) Temporary Everett Use.....	10
(3) Full Capacity Indemnity.....	10
E. District Non-Use of District Capacity Rights / Use of Other Utility.....	10
5. CHARGES, PAYMENTS, AND FEES.....	11
A. Capacity Right Charge.....	11
B. Payments for Capital Costs.....	11
(1) District Share of Capital Costs Incurred Before Effective Date.....	11
(2) District Share of Capital Costs Incurred After Effective Date.....	11
(a) Calculation of District Share	11
(b) Table.....	12
(c) Capital Costs of Expansion	13
(d) Payment Procedure.....	13

(3) Reclassified Capital Costs	13
C. Monthly Maintenance and Operations Charge	13
(1) Definition of Total Everett Costs.....	13
(2) Definition of District Percentage Share of Everett Total Costs.....	14
(3) Definition of District Monthly M&O Charge per District CE	16
(a) General Definition.....	16
(b) Twelve-Month Percentage Floor.....	16
(4) Monthly M&O Charge	17
(5) Drainage Exclusion.....	18
(6) 1982 Sewage Agreement.....	18
6. OTHER RESPONSIBILITIES AND OBLIGATIONS	18
A. Design and Construction Standards	18
B. Maintenance and Operation Standards	18
C. Sewage Standards	19
(1) General.....	19
(2) Pretreatment.....	19
D. Sewage Indemnity.....	19
E. Sewer Rates.....	20
F. Everett Use of District Sewer Facilities.....	20
G. District's Everett Basin	20
7. ANNEXATION AND SERVICE TRANSFER AREAS.....	20
A. Annexation.....	20
B. Service Transfer Areas.....	21
(1) Service Transfer Areas	21
(2) Sixty-Percent Date.....	21
(3) Dates of Transfer for Service Transfer Areas.....	21
(a) Service Transfer Area One	21
(b) Service Transfer Area Two	21
(c) Service Transfer Area Three	22
(d) Service Transfer Area Four	22
(e) Service Transfer Area Five.....	22
(f) Service Transfer Area Six	23
(4) Failure to Achieve Sixty-Percent Date	23

C.	Effect of Transfer of a Service Transfer Area	23
(1)	Transfer of Property.....	23
(a)	Service Transfer Area One	23
(b)	Service Transfer Area Two	23
(c)	Service Transfer Area Three	23
(d)	Service Transfer Area Four	23
(e)	Service Transfer Area Five.....	24
(f)	Service Transfer Area Six	24
(2)	Transfer of Maintenance and Operational Responsibility	24
(3)	Transfer of Customers	24
(a)	Customers Are Everett Customers After Transfer	24
(b)	Billings for Service Prior to Transfer	24
(4)	Responsibility for Outstanding District Indebtedness	24
(a)	Everett Payment Responsibility	24
(b)	Payment	25
(c)	District Remains Responsible for Other Indebtedness	25
(5)	Assumption of District Contracts	25
(6)	Adjustment of District Capacity Rights.....	26
(7)	Withdrawal of Service Transfer Area from District	27
(8)	District Reservation of Capacity in Facilities within Service Transfer Areas.....	27
(9)	District Special Basin Benefit Charges	27
D.	Reservoir No. 3 and Agreements Regarding Water.....	28
(1)	Reservoir Ownership	28
(2)	Determination of Capacity Share	28
(3)	Adjustment of Capacity Share After Transfer of Service Transfer Area	28
(4)	Shared Operation and Maintenance Costs.....	28
(5)	Master Meter Relocation	29
(6)	Charge for Water	29
(7)	Murphy's Corner Standby Connection.....	29
(8)	Regulatory Water Storage Requirements	29
E.	Operational Procedures and Principles	29
(1)	Master Meters	30
(2)	Water Mains	30

F.	Court Decision Regarding Section 7.....	31
8.	MID-TERM REOPENER MEETING AND ARBITRATION.....	31
A.	Mid-Term Re-opener Meeting.....	31
B.	Equitable Adjustment by Arbitration.....	31
(1)	Arbitration Purpose.....	31
(2)	Adjustment Provisions.....	31
(a)	Capacity Price.....	32
(b)	Capital Costs.....	32
(c)	Use of the Other Party’s Facilities	32
(d)	District Indebtedness	32
(e)	Reservoir No. 3.....	32
(3)	Process for Arbitration.....	32
(a)	Adjustment Notice.....	32
(b)	Negotiation	33
(c)	Arbitration Notice.....	33
(d)	Scope of Panel Authority	33
(e)	Adjustment Decision	33
(f)	Post-Arbitration Proceedings	33
9.	DEFAULT	33
A.	Breach of Obligation to Pay Money.	33
B.	Other Breaches	34
C.	Force Majeure	35
10.	INDEMNITY.....	35
A.	General Indemnity	35
B.	RCW 4.24.115 / Title 51 RCW.....	35
11.	MISCELLANEOUS PROVISIONS	35
A.	Governing Law	35
B.	Venue	35
C.	Complete Agreement	35
D.	Amendment.....	35
E.	Waiver.....	36
F.	Severability	36
G.	Notice	36

H.	Assignment/Dissolution.....	36
I.	Successors	36
J.	Relinquishment and Termination of Old Agreements	36
K.	Consent	37
L.	Duty to Disclose.....	37
M.	Recitals Incorporated by Reference	37
N.	No Third Party Beneficiaries	37
O.	Exhibits Incorporated by Reference.....	37
P.	Survival	37
Q.	Records	37
R.	Compliance with the Washington State Public Records Act.....	38
S.	Recording.....	38

Exhibits

- Exhibit A: Service Transfer Areas Map (and other boundaries)
- Exhibit B: SLWSD Connection Points
- Exhibit C: Everett Sewer System - Capacity Facilities
- Exhibit D: Purchase, Sale or Lease of Capacity
- Exhibit E: EWPCF - Headworks
- Exhibit F: Stormwater Policy and Procedure for Separating Costs
- Exhibit G: Stormwater Reduction Percentage
- Exhibit H: Payments Based on Cycle Everett Revenue Threshold Factor

**SEWAGE AND ANNEXATION AGREEMENT
BETWEEN
CITY OF EVERETT
AND
SILVER LAKE WATER AND SEWER DISTRICT**

This Sewage and Annexation Agreement ("***Agreement***") is dated for reference purposes the 31st day of March, 2015 ("***Effective Date***"), and is by and between the City of Everett, a Washington municipal corporation ("***Everett***") and Silver Lake Water and Sewer District, a Washington municipal corporation ("***District***") (individually a "***Party***" and collectively the "***Parties***").

RECITALS

- A. The Parties are each authorized to operate sewer and water systems and to enter into agreements regarding water and regarding the conveyance, treatment and disposal of sewage.
- B. Everett and District are parties to the Agreement for Sewage Disposal dated June 16, 1982, as amended by amendments dated January 23, 1985; March 19, 1986; December 12, 1991; June 28, 2000; September 20, 2010; and May 15, 2012 (as amended, the "***1982 Sewage Agreement***").
- C. Everett and the District are parties to the Agreement between the City of Everett and the Silver Lake Water District Concerning Annexations of Portions of the District to the City dated December 12, 1991 (the "***1991 Annexation Agreement***").
- D. The Parties desire to enter into this Agreement in order to provide for sewage service for the next fifty (50) years. Except as otherwise provided below, this Agreement supersedes and replaces the 1982 Sewage Agreement in its entirety.
- E. During this 50 year period, the Parties also desire to enter into this Agreement to plan cooperatively for future annexations of areas within the District by Everett and the possible transfer to Everett of certain District assets and transfer of customer water and sewer service. This promotes mutual long range predictability in customer base, staffing levels, capital facility needs, water demand, sewage conveyance and treatment, and fiscal planning and viability. Except as otherwise provided below, this Agreement replaces and supersedes the 1991 Annexation Agreement in its entirety.
- F. Everett and the District have authority to enter into this Agreement under the provisions of RCW 35.67.300, Chapter 57.08 RCW, Chapter 39.34 RCW, Chapter 35.13A RCW and other Washington statutes.

AGREEMENT

The Parties agree as follows:

1. DEFINITIONS

- A. ***“Actual District CE’s”*** are defined in Section 5.C (4) of this Agreement.
- B. ***“Adjustment Notice”*** is defined in Section 8.B (3) (a).
- C. ***“Adjustment Provisions”*** are defined in Section 8.B (2) of this Agreement.
- D. ***“Agreed Capacity”*** is the agreed capacity that Everett and District have designated for each Everett Capacity Facility for the purposes of determining District’s percentage share of capital costs. The Agreed Capacities are shown in the table contained in Section 5.B (2) (b) of this Agreement. For the EWPCF, the Agreed Capacity is attained when there is capacity to treat both the liquid and solids at the stated flow rate. Therefore, the 40.4 MGD Agreed Capacity shown in the table will be met when there have been facilities constructed to treat both the liquid and solids waste streams associated with the maximum average wet month flow of 40.4 MGD.
- E. ***“Agreement”*** means this document and is defined in the first paragraph of this Agreement.
- F. ***“Calculated Single Family Sewer Rate”*** is defined in Section 5.C (3) (a) of this Agreement.
- G. ***“Capacity Buyer”*** is defined in Section 4.F. (2) of this Agreement.
- H. ***“Claims”*** means any and all losses, claims, demands, expenses (including, but not limited to, attorney’s fees and litigation expenses), penalties, permit violations, fines, claims of violation of regulation(s), suits, governmental or regulatory proceedings, judgments and damage, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, consequential damages or other kind of damages.
- I. ***“Connection Point(s)”*** are defined in Section 3.A of this Agreement and are shown in Exhibit B attached to this Agreement.
- J. ***“Construction and Design Costs”*** mean all costs relating to financing, permitting, design and construction of a public works project, including without limitation all costs of engineers, surveyors, design professionals and other consultants; all costs of construction contractors and subcontractors for labor, materials, equipment, and overhead, and contractor claims or other project

claims; all costs related to right-of-way and land costs; all costs for testing and inspection; legal fees; and interim financing costs.

- K. ***“District”*** means the Silver Lake Water and Sewer District and is defined in the first paragraph of this Agreement.
- L. ***“District Capacity Rights”*** are defined in Section 4.A of this Agreement.
- M. ***“District CE’s”*** are defined in the table in Section 5.C (2) of this Agreement.
- N. ***“District Everett Sewer Basin”*** represents the area from which the District delivers sewage to Everett. As of the Effective Date of this Agreement, the District Everett Sewer Basin includes the Service Transfer Areas 1-6 and the Mill Creek MUGA-Everett Sewer Basin area as shown in the attached Exhibit A.
- O. ***“District Indebtedness”*** means the District's water-sewer related indebtedness and includes general obligation bonds, revenue bonds, loans from State and Federal funds or programs, and temporary, emergency and interim loans. District Indebtedness includes utility local improvement district (ULID) bonds, local improvement district (LID) bonds, or general obligation bonds, but only to the extent that the revenue necessary to pay such ULID bonds, LID bonds or general obligation bonds transfers to Everett upon transfer of a Service Transfer Area. For example, payments in connection with an LID bond secured by real property are usually paid by property owners in the LID area by property taxes, and such tax payments would not be available to Everett. Accordingly, that LID bond would not be part of District Indebtedness for the purposes of this Agreement.
- P. ***“District Monthly M&O Charge per District CE”*** is defined in Section 5.C (3) (a) of this Agreement.
- Q. ***“District Percentage Share of Total Everett Costs”*** is defined in Section 5.C (2) of this Agreement.
- R. ***“Effective Date”*** is defined in the first paragraph of this Agreement.
- S. ***“EMC”*** is Everett Municipal Code.
- T. ***“Everett”*** is the City of Everett and is defined in the first paragraph of this Agreement.
- U. ***“Everett Capacity Facilities”*** are defined in Section 4.A of this Agreement.

- V. ***“Everett Sewer Indebtedness”*** is all Everett indebtedness and other financial obligations related to sewage collection and treatment for the Everett sewer system, including without limitation parity and non-parity bonds, revenue bonds, general obligation bonds, utility local improvement district (ULID) bonds, Public Works Trust Fund loans, other State or Federal loans, City inter-fund loans, capitalized leases, and any other financial obligation that is a financial encumbrance on the Everett sewer ratepayer.
- W. ***“EWPCF”*** means the Everett Water Pollution Control Facility on Smith Island, excluding the headworks and influent pumps and excluding the structures related to these pumps.
- X. ***“Final Court Decision”*** is defined in Section 7.F of this Agreement.
- Y. ***“Force Majeure Event”*** is defined in Section 9.C of this Agreement.
- Z. ***“gpm”*** means gallons per minute.
- AA. ***“Headworks at EWPCF”*** means the facilities through which the District’s sewage flows at the EWPCF prior to entering Diversion Structure # 1. Diversion Structure # 1 is prior to the primary clarifiers. Headworks at EWPCF is shown on Exhibit E attached to this Agreement.
- BB. ***“Maximum Month Flow”*** means the 30 consecutive days of highest inflow into the EWPCF within a calendar year.
- CC. ***“MGD”*** means million gallons per day.
- DD. ***“Monthly M&O Charge”*** is defined in Section 5.C (4) of this Agreement.
- EE. ***“New Everett Sewer Indebtedness”*** or ***“NESI”*** is all Everett Sewer Indebtedness incurred after the Effective Date. For Everett Sewer Indebtedness that was incurred prior the Effective Date, but refunded by Everett after the Effective Date, the refunded debt principal amount will continue to not be included in New Everett Sewer Indebtedness, but any additional or increased principal obligations in the refunded bond issue will be included in New Everett Sewer Indebtedness. For the purposes of this definition, a bond is “incurred” on the closing date of the bond sale, a loan is “incurred” when the loan agreement is fully executed, and a capitalized lease is “incurred” when the lease is fully executed.
- FF. ***“Newly Annexed Area”*** is defined in Section 7.B (2) of this Agreement.
- GG. ***“Outstanding District Indebtedness”*** is defined in the table in Section 7.C (4) (a) of this Agreement.
- HH. ***“1982 Sewage Agreement”*** is defined in Recital B of this Agreement.

- II. **"1991 Annexation Agreement"** is defined in Recital C of this Agreement.
- JJ. **"Request Resolution Period"** is defined in Section 7.F of this Agreement.
- KK. **"Service Area"** means the District's sewer service area as of the Effective Date of this Agreement, as such sewer service area may be modified or amended by a District-approved Sewer Comprehensive Plan during the term of this Agreement.
- LL. **"Service Transfer Area"** is defined in Section 7.B (1) of this Agreement, and each Service Transfer Area is shown on Exhibit A to this Agreement. Five of the Service Transfer Areas are located within the District's corporate boundaries, while the Service Transfer Area Six, located north of Seattle Hill Road and along Lowell Larimer Road, is almost entirely located within the Cross Valley Water District, a Title 57 RCW water-sewer district. The District provides only sewer service within Service Transfer Area Six. The District owns and operates sewer facilities and may further develop sewer infrastructure to provide sewer service to properties within Service Transfer Area Six in accordance with the District-Cross Valley Water District Interlocal Agreements and amendments dated October 16, 2001; December 14, 2006; February 20, 2007; and March 18, 2010.
- MM. **"Sewage"** means sanitary sewage, consisting of domestic, commercial, and industrial wastewater (subject to pretreatment requirements), and infiltration and inflow.
- NN. **"Shared Treatment and General Costs"** are defined in the table in Section 5.C (2) of this Agreement.
- OO. **"Sixty-Percent Date"** is defined in Section 7.B (2) of this Agreement.
- PP. **"Stormwater"** means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- QQ. **"Stormwater Reduction Percentage"** is defined in the table in Section 5.C (2) of this Agreement and as set forth in Exhibit G.
- RR. **"transfer"** as used in Section 7 of this Agreement means the process of transferring Service Transfer Areas from the District to Everett, as set forth in Section 7 of this Agreement and pursuant to RCW 35.13A.070 and other Washington statutes.
- SS. **"Twelve-Month Percentage Floor"** is defined in Section 5.C (3) (b) of this Agreement.
- TT. **"Total Everett Costs"** are defined in Section 5.C (1) of this Agreement.

UU. “**Urban Growth Area**” or “**UGA**” means the Urban Growth Area determined by Snohomish County in accordance with RCW 36.70A.110 in cooperation with Everett, as such UGA may be modified or amended during the term of this Agreement.

VV. “**Water Connections**” are defined in Section 7.B. (2) of this Agreement.

WW. “**Water Main Owner**” and “**Water Main Non-Owner**” are defined in Section 7.E (2) (a) of this Agreement.

2. TERM OF AGREEMENT

This Agreement will remain in effect for a term of fifty (50) years, beginning on the Effective Date. This agreement may be amended at any time by mutual written agreement of the Parties.

However, as described in Section 8 below, the Parties shall meet during the first quarter of 2040 to discuss possible revisions to this Agreement. Further, no later than five (5) years prior to the end of this Agreement, the Parties shall meet to discuss extension of this Agreement. The Parties may renew and extend this Agreement by mutual written agreement upon such terms and conditions as the Parties may agree. If such an agreement is not reached, this Agreement shall terminate at the end of its term.

3. PERMISSION TO DISCHARGE SEWAGE / CONNECTION POINTS

A. Connection Points.

Subject to the provisions of this Agreement, the District shall have the right to discharge sewage from the District into the Everett sewer system by existing connections (“**Connection Points**”) to the Everett South End Interceptor Extension as shown on Exhibit B attached to this Agreement. Subject to Everett approval, the District may install additional or relocated Connection Points at the District’s sole expense. Everett has no obligation under this Agreement to accept sewage from outside of the District’s Service Area or to accept sewage at locations other than Connection Points.

B. Operation and Maintenance of Connection Points.

Everett shall own, maintain, and operate the Connection Points.

C. Connection Point Flow Monitoring.

At the written request of Everett, the District shall at the District’s sole expense perform a flow monitoring study at the Connection Points that will best measure District sewage discharge quantity and quality entering the Everett sewer system. Everett may make such requests no more than once every five (5) years. The District shall begin the flow monitoring study within sixty (60) days after receipt of the request from Everett. The flow monitoring study

must (1) include the entire month of the Maximum Month Flow as identified by Everett within the five month period of November through March, (2) be performed with equipment and devices suitable and appropriate for the measurement of flows at the Connection Points, and (3) be performed by a qualified party. The District shall promptly provide to Everett the written results of the flow monitoring study. This Section C does not restrict Everett from undertaking other flow monitoring studies in addition to the District's flow monitoring studies. If the location has access to telemetry, both Parties shall have the right to establish a connection to the signal.

4. DISTRICT CAPACITY RIGHTS

A. Grant of District Capacity Rights

Subject to the terms of this Agreement, Everett grants the following capacity rights ("***District Capacity Rights***") to District in the following Everett sewer facilities ("***Everett Capacity Facilities***") as shown on Exhibit B and Exhibit C attached to this Agreement:

Segment	Everett Capacity Facility	District Capacity Right
A	South End Interceptor Extension from SMH 2085Y06 to SMH 2085Z08	831 gpm
B	South End Interceptor Extension from SMH 2085Z08 to SMH 2085Z07	5,400 gpm
C	South End Interceptor Extension from SMH 2085Z07 to South End Interceptor South Segment SMH 0885Z02 (Shadow Wood Screen)	11,500 gpm
D	South End Interceptor South Segment from SMH 0885Z02 (Shadow Wood Screen) to South End Interceptor North Segment (upstream end of SML 0585C0A)	11,500 gpm
E	South End Interceptor North Segment (upstream end of SML 0585C0A) to EWPCF's Headworks	11,500 gpm
F	Headworks at EWPCF	11,500 gpm
G	Sewage Treatment Plant (Everett Water Pollution Control Facility-EWPCF)	6.6 MGD
The District Capacity Rights listed in "gpm" are determined as the maximum 60-minute volume in gallons averaged over 60 minutes. The District Capacity Rights listed in "MGD" are determined as maximum average wet month (30 consecutive days) flow.		
The "segment" designation is only for clarity and is shown in attached <u>Exhibit C</u> .		

B. Everett Capacity Facilities.

Everett shall size, design, construct, maintain, repair, and operate the Everett Capacity Facilities to make the District Capacity Rights available when needed to the District on a continuous basis and allow the District to use when needed the full volume of the District Capacity Rights. Nothing in this Agreement limits or otherwise affects Everett's authority to use the capacity in the Everett Capacity Facilities that is in excess of the District Capacity Rights. District Capacity Rights only confer on District the rights granted under this Agreement and do not constitute ownership of or any other interest or right in any Everett Capacity Facility or any other facility in the Everett sewer system.

C. District Sewage Flows in Excess of District Capacity Rights.

(1) Remedial Measures. The District shall begin remedial measures no later than thirty (30) days after the occurrence of either of the following events:

(a) District sewage flows in any Everett Capacity Facility are measured in excess of District Capacity Rights.

(b) District sewage flows in any Everett Capacity Facility are reasonably projected to exceed District Capacity Rights within three (3) years.

Everett and the District shall meet to discuss and coordinate appropriate District remedial measures. Unless otherwise agreed in writing by Everett and the District, the District's remedial measures shall at minimum include the District taking all reasonable steps to reduce delivery of sewage, with the objective of curing excess sewage flows and preventing, for the remainder of the term of this Agreement, District sewage flows being in excess of District Capacity Rights.

(2) Everett Options. If the District's remedial measures under Section 4.C(1) do not cure or prevent excess District sewage flows in the reasonable judgment of Everett, then Everett may, so long as Everett is not in default under this Agreement, exercise one or more of the following options to remedy and prevent future excess sewage flows in the most cost-effective manner:

(a) Moratorium on New Tributary Connections. Everett may require that the District not allow any new connections that would contribute to District sewage flows being in excess of District Capacity Rights. In order to exercise this option, Everett shall deliver notice to the District. No later than thirty (30) days after delivery of the notice, the District shall not allow any such new connections, except for connections the District is already contractually required to provide through, for example, prior payment of District connection charges or utility local improvement assessments. The District shall not allow any new connections if so barred or prohibited by order of the Washington State Department of Ecology.

(b) Forced Purchase of Additional Capacity Rights. Provided Everett has existing unused capacity to sell, Everett may require the District to purchase additional District Capacity Rights by payment of a capacity charge to Everett for such additional rights.

Everett will calculate the amount of the charge using the methodology set forth on Exhibit D attached to this Agreement. In order to exercise this option, Everett shall deliver notice to the District. The District shall pay the charge by the later of (i) the date when the District first uses the additional District Capacity Rights or (ii) thirty (30) days after delivery of the notice to the District. The District acknowledges and agrees that the purchase of additional District Capacity Rights will cause an increase in the District's share of capital costs, as calculated in accordance with Section 5.B.(2) of this Agreement.

(c) Facility Improvement. Everett may re-size, re-design, re-construct or otherwise improve or expand or replace the Everett Capacity Facilities so that the Everett Capacity Facilities can serve the additional capacity required by the District. The District shall pay to Everett all Construction and Design Costs incurred by Everett for the improvement of the Everett Capacity Facilities, except for the portion of the Construction and Design Costs attributable to the capacity requirements of entities other than District. The District shall pay its portion of the Construction and Design Costs in accordance with the procedures for the payment of capital costs under Section 5.B (2) (d) of this Agreement.

(d) Refusal to Accept Sewage. Everett may refuse to accept District sewage flows in excess of District Capacity Rights.

(3) Excess Flow Indemnity. In addition to any other indemnity or defense obligation that the District may have under this Agreement, the District shall indemnify and defend Everett and its officers, employees and agents, from and against any and all Claims arising from or relating to discharge of any sewage by District into the Everett sewer system in excess of District Capacity Rights. However, Everett shall take reasonable actions to mitigate the effect of discharge of sewage by District into the Everett sewer system in excess of District Capacity Rights.

D. Everett Capacity Facilities Insufficient for District Capacity Rights

(1) Remedial Measures. Everett shall begin remedial measures no later than thirty (30) days after the District gives Everett notice that there exists a reasonable projection that, within the three (3) years after the delivery date of the notice, the District will have sewage to deliver to the Everett sewer system and the District has District Capacity Rights for such sewage, but the District will be unable to deliver the sewage because an Everett Capacity Facility will have insufficient capacity. Unless otherwise agreed in writing by Everett and the District, Everett's remedial measures to cure such insufficient capacity must include one or both of the following:

(i) Discharge Reduction. At Everett's sole expense, Everett shall take reasonable steps to reduce discharge into the Everett sewer system from persons other than the District to create the capacity to partially or fully satisfy the District's Capacity Rights.

(ii) Improvement of Facilities. At Everett's sole expense, Everett shall re-size, re-design, re-construct or otherwise improve or expand the Everett Capacity Facility.

(2) Temporary Everett Use. Everett shall preserve District Capacity Rights in the Everett Capacity Facilities. Everett, upon obtaining the District's prior written approval, may temporarily use the District's unused capacity in the Everett Capacity Facilities as necessary for Everett sewer system operation, maintenance, and management.

(3) Full Capacity Indemnity. In addition to any other indemnity or defense obligation that Everett may have under this Agreement, Everett shall indemnify and defend District and its officers, employees and agents from and against any and all Claims arising from or relating to the circumstance where the District has sewage to deliver to the Everett sewer system and has District Capacity Rights for such sewage, but the District is unable to deliver the sewage because an Everett Capacity Facility has insufficient capacity. However, the District shall take reasonable actions to mitigate the effect of such a circumstance.

E. District Non-Use of District Capacity Rights / Use of Other Utility.

The District has no obligation under this Agreement to deliver sewage to Everett or to use the District Capacity Rights (and the District may choose, after notification to Everett, to serve portions of the District's Everett Sewer Basin by delivering sewage to a utility other than Everett), but failure to use District Capacity Rights will not cause any refund of any payment made under Section 5.A or Section 4.C (2) (b) and will not cause refund or alteration of any payments due under Section 5.B. Notwithstanding the foregoing, the District shall not enter into any contract that would obligate sending sewage from within Everett's UGA, as it exists as of the Effective Date of this Agreement as identified on Exhibit A, to an entity other than Everett.

F. District Sale of District Capacity Rights.

The District may sell all or a portion of the District Capacity Rights to a buyer (a "**Capacity Buyer**"), subject to the following conditions:

(1) The Capacity Buyer's sewer service area is within Snohomish County.

(2) The Capacity Buyer is an entity with a sewer agreement with Everett, is a city, or is a special purpose district organized pursuant to Titles 35, 35A, 54 or Title 57 RCW.

(3) The District is not in default under this Agreement and is current on all payments to Everett required under this Agreement.

(4) The Capacity Buyer is not in default under any payment obligation required by any agreement with Everett.

(5) The District, the Capacity Buyer, and Everett execute an assignment and assumption agreement in a form reasonably acceptable to Everett, under which the Capacity Buyer assumes all of District's rights, obligations and limitations under this Agreement with respect to the portion of District Capacity Rights being sold and with respect to the sewage that the Capacity Buyer will discharge into the Everett sewer system pursuant to the District

Capacity Rights. The assignment and assumption agreement will include a provision acknowledging and agreeing that the Capacity Buyer may only use the District Capacity Rights by discharging sewage into the Everett sewer system at Connection Point(s) approved by Everett.

(6) Everett reasonably determines that the Capacity Buyer's financial condition is sufficient to support the assumption of District's obligations under this Agreement.

(7) The sale of the District Capacity Rights does not cause Everett to pay for any capital cost or consultant expense.

(8) If requested by Everett, the Capacity Buyer is the lead agency for the purpose of SEPA review of the sale of District capacity if the Parties determine that SEPA applies to such sale.

5. CHARGES, PAYMENTS, AND FEES

A. Capacity Right Charge.

After the Effective Date of this Agreement, except as provided in Section 4. C. (2) (b) and (c), if the District desires to acquire additional District Capacity Rights from Everett and such capacity is available or may be made available, at the sole discretion of Everett, the District shall pay a capacity right charge to Everett for such additional District Capacity Rights, as calculated by Everett in accordance with the methodology set forth in Exhibit D attached to this Agreement. Everett agrees that the capacity right charge set forth in Exhibit D includes all compensation to Everett for Everett's capital costs related to the additional District Capacity Rights up to the date of purchase of the additional District Capacity Rights. After such purchase date, the District shall pay the District's increased share of capital costs, as calculated in accordance with Section 5.B of this Agreement

B. Payments for Capital Costs.

(1) District Share of Capital Costs Incurred Before Effective Date. For any capital cost related to an Everett Capacity Facility incurred by Everett before the Effective Date of this Agreement, the District shall pay Everett in accordance with the terms of the 1982 Sewage Agreement.

(2) District Share of Capital Costs Incurred After Effective Date.

(a) Calculation of District Share. For any capital cost related to an Everett Capacity Facility incurred by Everett on or after the Effective Date of this Agreement, the District shall pay to Everett an amount equal to the capital cost multiplied by District's percentage share, which percentage share is calculated by dividing the then-current District Capacity Right for the Everett Capacity Facility by the Agreed Capacity of the Everett Capacity Facility. Capital costs include Design and Construction Costs for capital improvement, protection, or replacement of any portion of any Everett Capacity Facility (including without limitation any upgrade mandated by regulatory requirements) and include all costs related to an

Everett Capacity Facility that by accounting rules are capital costs. However, costs for improvements to the Smith Island dikes (such as raising or widening) are capital costs, but costs for maintenance of the dikes (such as ditch cleaning) are not capital costs. Further, for the sake of clarity, the parties agree that the District's percentage share of the capital costs for Everett's upcoming solids stream facilities project (*e.g.* digester or equivalent) at the EWPCF will be the then-current District Capacity Right for the EWPCF divided by the EWPCF Agreed Capacity, which as of the Effective Date of this Agreement is 16.34%. If this project constructs facilities that treat both the liquid and solids waste streams associated with maximum average wet month flow in excess of 40.4 MGD, then the capital costs arising from such excess will be subject to Section 5.B.(2)(c) below.

(b) Table. The table below shows the Everett Capacity Facilities, their Agreed Capacities (which are fixed for the term of this Agreement, but subject to Section 8 below), and the District percentage share based upon District Capacity Rights as of the Effective Date of this Agreement. The Everett Capacity Facilities are also shown on Exhibit C attached to this Agreement.

Segment	Everett Capacity Facility	Agreed Capacity of Everett Capacity Facility	District Percentage Share
A	South End Interceptor Extension from SMH 2085Y06 to SMH 2085Z08	5,500 gpm	831/5,500 = 15.11%
B	South End Interceptor Extension from SMH 2085Z08 to SMH 2085Z07	13,400 gpm	5,400/13,400 = 40.30%
C	South End Interceptor Extension from SMH 2085Z07 to South End Interceptor South Segment SMH 0885Z02 (Shadow Wood Screen)	16,000 gpm	11,500/16,000 = 71.88%
D	South End Interceptor South Segment from SMH 0885Z02 (Shadow Wood Screen) to South End Interceptor North Segment (upstream end of SML 0585C0A)	32,000 gpm	11,500/32,000 = 35.94%
E	South End Interceptor North Segment (upstream end of SML 0585C0A) to EWPCF's Headworks	45,000 gpm	11,500/45,000 = 25.56%
F	Headworks at EWPCF	80,000 gpm	11,500/80,000 = 14.38%
G	EWPCF	40.4 MGD	6.6/40.4 = 16.34%
The District Capacity Rights listed in "gpm" are determined as the maximum 60-minute volume in gallons averaged over 60 minutes. The District Capacity Rights listed in "MGD" are determined as maximum average wet month (30 consecutive days) flow.			
The "segment" designation is only for clarity and is shown in attached <u>Exhibit C</u> .			

(c) Capital Costs of Expansion. If a capital project expands an Everett Capacity Facility so that its capacity at the completion of the project is in excess of the Agreed Capacity, then District shall pay its share of the capital expansion project costs as calculated by Section 5.B above, except that such capital costs shall also be prorated so that District does not pay for the portion of the project that expands the Everett Capacity Facility in excess of the Agreed Capacity.

(d) Payment Procedure.

(i) Progress Payments. For capital costs that Everett pays by making progress payments to persons such as contractors or engineers, the District will pay to Everett an amount equal to each Everett progress payment multiplied by the District's percentage share within thirty (30) days after receipt of a bill from Everett, except for any disputed amounts. After completion of the project and release of all claims, the Parties will establish and adjust final total costs.

(ii) Non-Progress Payments. For capital costs (*e.g.*, pump replacement, dike upgrades or other similar items) related to an Everett Capacity Facility that Everett does not pay by progress payments, the District shall pay to Everett an amount equal to the District's percentage share of the capital cost within thirty (30) days after documentation of the cost incurred by Everett and receipt of a bill from Everett.

(3) Reclassified Capital Costs. If a project at inception is not classified as capital cost but later becomes classified as a capital cost, then Everett shall provide written notice to the District describing the reclassified project (with total budget and project schedule), stating the reason for the reclassification and stating the dollar amount by year that was previously included in the District's Monthly M&O Charge for the project. Effective upon such notice: (i) Everett shall not include the reclassified project in future calculations of the Monthly M&O Charge and (ii) the District shall pay for the reclassified project as a capital cost in accordance with this Section 5.B, but the District will receive credit for the amounts the District has already paid for the reclassified project in the Monthly M&O Charge.

C. Monthly Maintenance and Operations Charge.

(1) Definition of Total Everett Costs. The term "***Total Everett Costs***" is defined by the following equation. (Everett shall recalculate Total Everett Costs effective each April 1st based on previous calendar-year data, and such recalculated Total Everett Costs will remain in effect until March 31st of the next calendar year.)

Total Everett Costs =

*Everett Collection Costs + Everett Treatment Costs
+ Everett Annual Debt Principal Costs*

Variable	Definition
<i>Everett Collection Costs</i>	Represents all costs of sewage collection for the Everett sewer system (as of the Effective Date of this Agreement, Everett program 109), but does not include depreciation (Budgetary and Accounting Reporting System (BARS) Account 400), amortization (BARS Account 403), or interfund transfers out for new sewer connections costs (BARS Account 900).
<i>Everett Treatment Costs</i>	Represents all costs of sewage treatment for the Everett sewer system (as of the Effective Date of this Agreement, Everett programs 111 and 112), but does not include depreciation (BARS account 400), amortization (BARS account 403), or interfund transfers out for new sewer connections costs (BARS Account 900).
<i>Everett Annual Debt Principal Costs (EADPC)</i>	Represents the total annual debt service principal costs on all New Everett Sewer Indebtedness. EADPC will be phased in as follows: <ul style="list-style-type: none"> • 2013-16: no EADPC will be included in Total Everett Costs; • 2017-20: 50% of EADPC will be included in Total Everett Costs; • 2021 and after: 100% of EADPC will be included in Total Everett Costs.

(2) Definition of District Percentage Share of Everett Total Costs.

The term “***District Percentage Share of Total Everett Costs***” is defined by the following equation. (Everett shall recalculate District Percentage Share of Total Everett Costs effective each April 1st based on previous calendar-year data, and such recalculated District Percentage Share of Total Everett Costs will remain in effect until March 31st of the next calendar year.)

District Percentage Share of Total Everett Costs =

$$\frac{\left(\left(\frac{\text{District CE's}}{\text{Total Everett CE's}} \right) \times \text{Shared Treatment and General Costs} \right) + (1\% \times (\text{Shared Other Collection Costs}))}{\text{Total Everett Costs}}$$

Variable	Definition
<i>District CE's</i>	District customer equivalents, which is the number of single family residences whose sewage the District discharges to Everett, plus the total average monthly water usage (based on the previous calendar year) of all other metered usage whose sewage the District discharges to Everett, divided by 900 cubic feet per month, <i>i.e.</i> , $\text{District CE's} = \text{Single Family Residences} + \frac{\text{Other Total Monthly Average Water Usage}}{900}$ <p>The District may count duplexes as either two single family residences or</p>

	as other metered sewage. As of the Effective Date of this Agreement, the number of District CE's is 14048. Everett will recalculate District CE's by March 1st of each calendar year based on the previous calendar-year data and will provide the recalculated number to the District within thirty (30) days after the recalculation. The recalculated number for District CE's will take effect as of April 1st of the calendar year and will remain in effect until March 31st of the next calendar year.																																								
<i>Total Everett CE's</i>	Total number of customer equivalents for all sewage received by the Everett sewer system and received by the EWPCF, including all sewage received from Everett's wholesale customers such as District. As of the Effective Date of this Agreement, the number of Total Everett CE's is 64821. Everett will recalculate Total Everett CE's by March 1st of each calendar year based on the previous calendar year data and provide the recalculated number to the District within thirty (30) days after the recalculation. The recalculated number for Total Everett CE's will take effect on April 1st of the calendar year and will remain in effect until March 31st of the next calendar year.																																								
<i>Shared Treatment and General Costs</i>	<p><i>Shared Treatment and General Costs = O&M Accounts × (1 – Stormwater Reduction Percentage/100)</i></p> <p>For the purposes of this equation, the "<i>Stormwater Reduction Percentage</i>" is calculated in accordance with the attached <u>Exhibit G</u>. "O&M Accounts" is the sum of the following Everett BARS accounts or their successors:</p> <table> <tr> <th><u>Account</u></th><th><u>Description</u></th></tr> <tr> <td>408</td><td>Utility Tax</td></tr> <tr> <td>626</td><td>Training</td></tr> <tr> <td>640</td><td>Treatment Supervision</td></tr> <tr> <td>641</td><td>Chemicals</td></tr> <tr> <td>642</td><td>Treatment Operations</td></tr> <tr> <td>643</td><td>Biosolids Management</td></tr> <tr> <td>646</td><td>Treatment Lab</td></tr> <tr> <td>647</td><td>Industrial Waste</td></tr> <tr> <td>648</td><td>Waste Monitoring</td></tr> <tr> <td>650</td><td>Maintenance Supervision/Engineering</td></tr> <tr> <td>651</td><td>Treatment Structure Maintenance</td></tr> <tr> <td>652</td><td>Treatment Equipment Maintenance</td></tr> <tr> <td>907</td><td>Customer Services</td></tr> <tr> <td>920</td><td>Administrative General</td></tr> <tr> <td>921</td><td>Office Expense</td></tr> <tr> <td>923</td><td>Outside Services</td></tr> <tr> <td>925</td><td>Injuries and Damages</td></tr> <tr> <td>926</td><td>Employee Pension/Benefits</td></tr> <tr> <td>932</td><td>Maintenance of General Plant</td></tr> </table>	<u>Account</u>	<u>Description</u>	408	Utility Tax	626	Training	640	Treatment Supervision	641	Chemicals	642	Treatment Operations	643	Biosolids Management	646	Treatment Lab	647	Industrial Waste	648	Waste Monitoring	650	Maintenance Supervision/Engineering	651	Treatment Structure Maintenance	652	Treatment Equipment Maintenance	907	Customer Services	920	Administrative General	921	Office Expense	923	Outside Services	925	Injuries and Damages	926	Employee Pension/Benefits	932	Maintenance of General Plant
<u>Account</u>	<u>Description</u>																																								
408	Utility Tax																																								
626	Training																																								
640	Treatment Supervision																																								
641	Chemicals																																								
642	Treatment Operations																																								
643	Biosolids Management																																								
646	Treatment Lab																																								
647	Industrial Waste																																								
648	Waste Monitoring																																								
650	Maintenance Supervision/Engineering																																								
651	Treatment Structure Maintenance																																								
652	Treatment Equipment Maintenance																																								
907	Customer Services																																								
920	Administrative General																																								
921	Office Expense																																								
923	Outside Services																																								
925	Injuries and Damages																																								
926	Employee Pension/Benefits																																								
932	Maintenance of General Plant																																								

<i>Shared Other Collection Costs</i>	Represents the sum of the following Everett BARS accounts or their successors:	
	<u>Account</u>	<u>Description</u>
	670	Supervision
	671	Manhole Structures
	673	Clean Mains
	674	Repair Mains
	677	Inspect Mains
	903	Customer Records
	Shared Other Collection Costs excludes costs of construction and maintenance of lateral or collector service lines to customers within the City of Everett. As of the Effective Date of this Agreement, this exclusion is accomplished by not including Everett BARS account 675 in Shared Other Collection Costs.	

(3) Definition of District Monthly M&O Charge per District CE.

(a) General Definition. Subject to Section 5.C (3) (b) below, the term “*District Monthly M&O Charge per District CE*” is defined by the following equation. Everett shall recalculate District Monthly M&O Charge per District CE effective each April 1st, and such recalculated District Monthly M&O Charge per District CE will remain in effect until March 31st of the next calendar year.

District Monthly M&O Charge Per District CE =

$$\left(\frac{\text{District Percentage Share of Total Everett Costs}}{\text{District CE's} / \text{Total Everett CE's}} \right) \times \text{Calculated Single Family Sewer Rate} \times 1.20$$

Variable	Definition
<i>Calculated Single Family Sewer Rate</i>	The Everett retail single family monthly sewer service rate established by Everett ordinance that is in effect on April 1st, <u>but excluding the stormwater portion of such rate</u> , as revised from time-to-time by Everett ordinance. The Calculated Single Family Sewer Rate stays in effect from April 1 until the next March 31. For example, the Calculated Single Family Sewer Rate per single family residence per month is \$36.31 (<i>i.e.</i> , \$49.50 ordinance rate - \$13.19 stormwater portion) for calendar year 2014. Accordingly, \$36.31 would be used as the Calculated Single Family Sewer Rate in the above equation from April 1, 2014 until March 31, 2015. The Calculated Single Family Sewer Rate excludes all capital costs related to new facilities that collect, store, convey, or treat only stormwater from computation of the sewer service rate, using the policy and procedures listed in Exhibit F.

(b) Twelve-Month Percentage Floor. The District M&O Monthly Charge per District CE is subject to a percentage floor calculation based on amount of New Everett Sewer Indebtedness as of January 1st of each calendar year. In particular, the amount of New Everett Sewer Indebtedness as of January 1st of each calendar year determines the “*Twelve-*

Month Percentage Floor” that will be in effect from April 1 of that calendar year until March 31 of the following calendar year, as shown in the table below:

New Everett Sewer Indebtedness (NESI) as of January 1	Twelve-Month Percentage Floor for April 1 to the following March 31
less than or equal to \$200 million	70%
over \$200 million and less than or equal to \$250 million	65%
over \$250 million and less than or equal to \$300 million	60%
over \$300 million and less than or equal to \$350 million	55%
over \$350 million	50%

Accordingly, if the District M&O Monthly Charge Per District CE for April 1 of a calendar year to March 31 of the following calendar year calculated by Section 5.C.(3)(a) above yields less per single family residence per month than the then-current Twelve Month Percentage Floor multiplied by the Calculated Single Family Sewer Rate, then the District M&O Monthly Charge Per District CE for such April 1 to March 31 will automatically increase to equal the Twelve Month Percentage Floor multiplied by the Calculated Single Family Sewer Rate.

- **Numerical Example #1. Assumptions:** The Calculated Single Family Sewer Rate is \$50.00/month for calendar year 2030; the New Everett Sewer Indebtedness as of January 1, 2030 is less than or equal to \$200 million; and the 2030-2031 District M&O Monthly Charge Per District CE according to the equation in Section 5.C (3) (a) above is \$34.00/month. **Calculation:** The District M&O Monthly Charge per District CE would automatically increase to \$35.00/month [*i.e.*, 70% of the 2030 Calculated Single Family Sewer Rate].

- **Numerical Example #2. Assumptions:** The Calculated Single Family Sewer Rate is \$50.00/month for calendar year 2030; the New Everett Sewer Indebtedness as of January 1, 2030 is less than or equal to \$200 million; and the 2030-2031 District M&O Monthly Charge Per District CE according to the equation in Section 5.C (3) (a) above is \$40.00/month. **Calculation:** The District M&O Monthly Charge per District CE would be \$40.00 [*i.e.*, because 40.00 is more than 70% of the 2030 Calculated Single Family Sewer Rate].

(4) **Monthly M&O Charge.** The District shall pay to Everett a monthly maintenance and operations charge (“**Monthly M&O Charge**”) in an amount equal to the District Monthly M&O Charge Per District CE multiplied by the Actual District CE’s for that month. For the purposes of this calculation, the “**Actual District CE’s**” are defined as the actual number of single family residences during that month whose sewage the District discharged to Everett, plus the actual total water usage for that month of all other metered usage whose sewage that the District discharges to Everett, divided by 900 cubic feet per month, *i.e.*, **Actual District CE’s = Single Family Residences + ((Other Total Water Usage)/900)**. The District shall pay the Monthly M&O Charge within thirty (30) days after receiving an invoice from Everett, except for any disputed amounts.

(5) Drainage Exclusion. The Monthly M&O Charge shall not include costs of stormwater and surface water drainage within the City of Everett. Such costs are represented as of the Effective Date of this Agreement by Everett program 123 and are excluded from the calculation of Total Everett Costs, Shared Treatment and General Costs, and Shared Other Collection Costs.

(6) 1982 Sewage Agreement. The Monthly M&O Charge takes effect as of the first April 1st after the Effective Date of this Agreement. The District shall pay for maintenance and operations costs prior to the Effective Date of this Agreement in accordance with the 1982 Sewage Agreement.

D. Payments Based on Cycle Everett Revenue Threshold Factor.

The Cycle Everett Revenue Threshold Factor is defined in Exhibit H. The Parties shall perform the calculations and make payments to each other as described in Exhibit H.

6. OTHER RESPONSIBILITIES AND OBLIGATIONS

The District is responsible at its sole risk and expense for the delivery of sewage to the Everett sewer system at the Connection Points and the payment of all costs incident to the collection of such sewage and its delivery to the Everett sewer system. The District shall be responsible for the construction, maintenance and operation of sewer facilities upstream from the Connection Points. The District shall also comply with the following:

A. Design and Construction Standards.

Design and construction standards and methods for all sewer facilities upstream of the Connection Points shall conform to then-prevailing written specifications, codes, methods, and standards of the State or to the written specifications, codes, methods and standards included in a duly adopted District sewer comprehensive plan or project engineering reports, if such comprehensive plan or engineering reports are approved by Washington State Department of Ecology or successor agency. Everett reserves the right to (but is not obligated to) make any inspection of construction plans or inspection of construction deemed necessary to enforce this requirement and to reject any such plans or work not conforming to such written specifications, codes, methods, and standards. In the event of such rejection, District shall not allow the rejected work to be connected upstream of the Connection Points.

B. Maintenance and Operation Standards.

District shall cause to be operated and maintained at no expense to Everett, except as provided for in Section 6.F., all sewer facilities located upstream from the Connection Points. All such maintenance and operation shall conform to the most current written specifications, codes, methods, and standards of the State or to the written specifications, codes, methods and standards included in a duly adopted District sewer comprehensive plan or project engineering reports, if such comprehensive plan or engineering reports are approved by Washington State Department of Ecology or successor agency. Everett reserves the right to (but is not obligated to) inspect particular District sewage facilities it has reasonable cause to believe are not being

maintained as required by this subsection. If the District fails to perform such maintenance, Everett may perform such maintenance at the District's cost. If requested by Everett, the District shall file, in accordance with EMC 14.04.150.B.4 or successor ordinance, with the Everett Public Works Department any and all existing drawings describing and locating certain trunks, laterals and any special facilities associated to the sewer facilities located upstream from the Connection Points.

C. Sewage Standards.

(1) General. All sewage delivered by District to the Everett sewer system must conform to the requirements set forth in the then-prevailing law applicable to Everett sewage, including without limitation all applicable Everett ordinances (for example, Chapter 14.40 EMC, Wastewater Pretreatment Regulations and its successors) and all applicable state or federal wastewater regulations and guidance documents.

(2) Pretreatment. Everett shall administer, implement and enforce the provisions of Everett's wastewater pretreatment regulations within the District Everett Sewer Basin. The District shall cooperate with Everett in Everett's administration of these regulations, including notifying Everett of any Significant Industrial Users of which the District is aware. The District grants Everett the authority and access necessary to inspect all sewer facilities upstream of the Connection Points for the purpose of enabling Everett to comply with all conditions of current or future National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permits related to federal, state, and Everett pretreatment regulations. This includes, but is not limited to, the monitoring of wastes and necessary construction of monitoring station facilities at customer locations. The District grants Everett the authority to issue permits, authority to require monitoring, and enforcement authority with respect to Significant Industrial Users (as defined in Chapter 14.40 EMC or its successor) that discharge upstream of the Connection Points.

D. Sewage Indemnity.

In addition to any other indemnity or defense obligation that District may have under this Agreement, the District shall indemnify and defend Everett and its officers, employees and agents, from any and all Claims arising from or relating to discharge of any sewage by District into the Everett sewer system if such sewage contains pollutants or other materials that cause Everett to violate any permit issued by any state or federal agency or that cause damage to any portion of the Everett sewer system or to third parties. This indemnity and defense obligation applies regardless of the identity of the person who released the pollutant or other material into the District sewer system that was later discharged into the Everett sewer system, except that this indemnity and defense obligation does not apply if such person is operating pursuant to a pretreatment or other permit issued by Everett or Everett has received, at least 6 months prior, actual knowledge such person should be operating pursuant to such permit(s).

E. Sewer Rates.

The District shall maintain its sewer rates so that the District sewer collections are sufficient for the District to pay its obligations under this Agreement.

F. Everett Use of District Sewer Facilities.

Everett may discharge sewage into District sewer facilities pursuant to RCW 35.13A.050. In the event Everett does so, Everett shall compensate the District for use of District facilities by paying the District: (1) Everett's pro-rata share of any debt payments owed by the District for the financing of the District facility and (2) Everett's pro-rata share of District's maintenance and operation expenses for the District facility. For the purposes of this Section 6.F, Everett's pro-rata share will be based on the amount of sewage discharged by Everett into the District facility in comparison to the total amount of sewage discharged into the District facility by persons other than Everett. The District shall invoice Everett semi-annually for the Everett use of District facilities, and Everett shall pay the invoices within thirty (30) days, except for any disputed amounts.

G. District Everett Sewer Basin.

The District shall not provide sewer service outside of District Service Area boundaries (depicted as District Study Area on Figure 2-1 in District's April 2011 Final Wastewater Comprehensive Plan) without Everett approval. Therefore, the District shall not expand the District Everett Sewer Basin outside of the District Service Area boundaries without the approval of Everett, which Everett may refuse in Everett's sole discretion. If the District transfers District Capacity Rights to a Capacity Buyer, then the District Everett Sewer Basin will be deemed to also include the area from which the Capacity Buyer delivers sewage to Everett under this Agreement, which area is subject to Everett's prior approval at Everett's sole discretion. Regardless of the foregoing, the District Everett Sewer Basin will automatically contract by subtraction of each Service Transfer Area from the District Everett Sewer Basin on the effective date of transfer of the Service Transfer Area from the District to Everett in accordance with Section 7 below.

7. ANNEXATION AND SERVICE TRANSFER AREAS

A. Annexation.

The Parties anticipate during the term of this Agreement that Everett will annex areas within Everett's UGA located within the District's Service Area, as permitted by applicable law. In exchange for the agreements under this Section 7, pursuant to RCW 35.13A.070, Chapter 39.34 RCW and other statutes and as such statutes may be modified, amended or superseded, the District agrees that it will not oppose annexation of areas within the Everett UGA, as such UGA exists as of the Effective Date of this Agreement and as the UGA may be later modified. The District reserves the right to object to and oppose any expansion of Everett's UGA in accordance with applicable law, if the District Board of Commissioners determines such UGA expansion to be contrary to the District's financial, operational or management interests.

B. Service Transfer Areas.

(1) Service Transfer Areas. As more specifically set forth in this Section 7, Everett may require the District to transfer to Everett areas that Everett has annexed. For the purposes of order and clarity, the Parties have agreed this will be accomplished by dividing a portion of the Everett UGA into six areas, which are designated on Exhibit A attached (each such area, a “***Service Transfer Area***”). Once the Sixty-Percent Date (as defined in Section 7.B.(2) below) is reached for a Service Transfer Area, then Everett may require transfer of the Service Transfer Area from the District to Everett on the date calculated in accordance with Section 7.B.(3) below. Until such transfer occurs in accordance with this Section 7, the District's control, management, operation and ownership of District facilities within an Everett-annexed area remain unchanged and customers within such an annexed area remain District customers.

(2) Sixty-Percent Date. Whenever Everett annexes an area within a Service Transfer Area (such annexed area, a “***Newly Annexed Area***”), the Parties will calculate as of the date of such annexation the total number of Water Connections (as defined below) within the Newly Annexed Area and within all previously Everett-annexed areas within the Service Transfer Area. If such calculation demonstrates that the total number of Water Connections within the Newly Annexed Area and all such previously annexed areas is equal to or greater than sixty percent (60%) of the total number of Water Connections within the entire Service Transfer Area, then the annexation date of the Newly Annexed Area is permanently designated as the “***Sixty-Percent Date***” for that Service Transfer Area. For the purposes of this Agreement, “***Water Connections***” means all District and Everett water connections in a Service Transfer Area, regardless of the meter size or type of property served by the connection. For the purposes of Service Transfer Area Six, Water Connections also includes all water connections to the Cross Valley Water District water system, regardless of the meter size or type of property served by the connection.

(3) Dates of Transfer for Service Transfer Areas.

(a) Service Transfer Area One.

If the Sixty-Percent Date for Service Transfer Area One is on or after January 1, 2014, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area One. The transfer is effective on the date of delivery of the notice or January 1, 2020, whichever date is later.

(b) Service Transfer Area Two.

(i) If the Sixty-Percent Date for Service Transfer Area Two is before January 1, 2024, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Two. The transfer is effective six (6) years after the date of delivery of the notice.

(ii) If the Sixty-Percent Date for Service Transfer Area Two is on or after January 1, 2024, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Two. The transfer is effective on the date of delivery of the notice or January 1, 2030, whichever date is later.

(c) Service Transfer Area Three.

(i) If the Sixty-Percent Date for Service Transfer Area Three is before January 1, 2034, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Three. The transfer is effective six (6) years after the date of delivery of the notice.

(ii) If the Sixty-Percent Date for Service Transfer Area Three is on or after January 1, 2034, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Three. The transfer is effective on the date of delivery of the notice or January 1, 2040, whichever date is later.

(d) Service Transfer Area Four.

(i) If the Sixty-Percent Date for Service Transfer Area Four is before January 1, 2044, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Four. The transfer is effective six (6) years after the date of delivery of the notice.

(ii) If the Sixty-Percent Date for Service Transfer Area Four is on or after January 1, 2044, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Four. The transfer is effective on the date of delivery of the notice or January 1, 2050, whichever date is later.

(e) Service Transfer Area Five.

(i) If the Sixty-Percent Date for Service Transfer Area Five is before January 1, 2024, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Five. The transfer is effective six (6) years after the date of delivery of the notice.

(ii) If the Sixty-Percent Date for Service Transfer Area Five is on or after January 1, 2024, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Five. The transfer is effective on the date of delivery of the notice or January 1, 2030, whichever date is later.

(f) Service Transfer Area Six.

(i) If the Sixty-Percent Date for Service Transfer Area Six is before January 1, 2044, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Six. The transfer is effective six (6) years after the date of delivery of the notice.

(ii) If the Sixty-Percent Date for Service Transfer Area Six is on or after January 1, 2044, then Everett may at any time after the Sixty-Percent Date provide notice to the District requiring transfer from the District to Everett of all of Service Transfer Area Six. The transfer is effective on the date of delivery of the notice or January 1, 2050, whichever date is later.

(4) Failure to Achieve Sixty-Percent Date. If a Sixty-Percent Date is not reached for a Service Transfer Area during the term of this Agreement, then Everett shall not, pursuant to Chapter 35.13A RCW or otherwise, require the District to transfer any portion of such Service Transfer Area until after the expiration of this Agreement.

C. Effect of Transfer of a Service Transfer Area.

(1) Transfer of Property. As of the effective date of the transfer of a Service Transfer Area, all District real and personal property within the Service Transfer Area becomes the property of Everett, subject to the following clarifications and exceptions:

(a) Service Transfer Area One. The property to be transferred to Everett includes without limitation District Reservoir No. 3 and Booster Station No. 3. The property to be transferred to Everett does not include the 8-inch water line in 35th Avenue SE from 108th Street SE to 116th Street SE, which will remain within Service Transfer Area Three and will be transferred to Everett at the same time as transfer of Service Transfer Area Three.

(b) Service Transfer Area Two. The property to be transferred to Everett does not include the 12-inch water line in 132nd Street SE between 19th Avenue SE and 35th Avenue SE, which the Parties agree will be permanently be owned and remain in the control of the District. The property to be transferred to Everett does not include the 8-inch water line in 35th Avenue SE from 116th Street SE to 128th Street SE, which will remain within Service Transfer Area Four and will be transferred to Everett at the same time as transfer of Service Transfer Area Four.

(c) Service Transfer Area Three. The property to be transferred to Everett does not include the 12-inch water line in 116th Street SE from 35th Avenue SE to 43rd Drive SE, which will remain within Service Transfer Area Four and will be transferred to Everett at the same time as transfer of Service Transfer Area Four.

(d) Service Transfer Area Four. The property to be transferred to Everett includes without limitation the 12-inch water line in 132nd Street SE between 35th Avenue SE and Seattle Hill Road. The property to be transferred to Everett does not include the 16-inch water line in 132nd Street SE from 35th Avenue SE to Seattle Hill Road, which the

Parties agree will be permanently owned and remain in the control of the District. The property to be transferred to Everett does not include 12-inch water line in Seattle Hill Road from 132nd Street SE to District Master Meter No. 6, which will remain within Service Transfer Area Six and will be transferred to Everett at the same time as transfer of Service Transfer Area Six.

(e) Service Transfer Area Five. No clarifications or exceptions.

(f) Service Transfer Area Six. The property to be transferred includes without limitation all lift stations within Service Transfer Area Six.

(2) Transfer of Maintenance and Operational Responsibility. As of the effective date of the transfer of a Service Transfer Area, Everett is exclusively responsible to manage, control, maintain and operate all real and personal property transferred to Everett within the Service Transfer Area.

(3) Transfer of Customers.

(a) Customers Are Everett Customers After Transfer. As of the effective date of the transfer of a Service Transfer Area, all District customers within the Service Transfer Area become Everett customers and Everett has the authority to fix and collect service and other charges from all owners and occupants of property within the Service Transfer Area.

(b) Billings for Service Prior to Transfer. Until the last business day of the month following the effective date of transfer of a Service Transfer Area, the District shall continue to collect all customer billings for the Service Transfer Area for utility services provided by the District prior to the effective date of the transfer of the Service Transfer Area. As of the first day of the second month after the effective date of the transfer of the Service Transfer Area, Everett shall purchase from the District all outstanding customer accounts receivable for the Service Transfer Area at one hundred percent (100%) face value. At Everett's request, the District shall provide to Everett a trial balance of customer accounts receivable with a notation of any account that has previously been disconnected for non-payment. The District shall work in good faith with Everett to provide additional customer account and billing information as requested by Everett. Each Party shall provide their full cooperation and assistance to the other Party to carry out and perform their respective obligations as provided in this subsection and as required in chapter 35.13A RCW. The District shall forward to Everett all customer payments from a Service Transfer Area received by the District after the effective date of transfer of the Service Transfer Area.

(4) Responsibility for Outstanding District Indebtedness.

(a) Everett Payment Responsibility. As of the effective date of the transfer of a Service Transfer Area, Everett shall pay to the District the Service Transfer Area's Share of Outstanding District Indebtedness, which is defined by the following equation:

Service Transfer Area's Share of Outstanding District Indebtedness =

$$\frac{((\text{District Revenue from Service Transfer Area})/(\text{Total District Revenue}))}{\times \text{Outstanding District Indebtedness}}$$

Term	Definition
<i>District Revenue from Service Transfer Area</i>	Sum all of water and sewer rate based revenue generated from the Service Transfer Area during the 12 months prior to the effective date of the transfer of the Service Transfer Area.
<i>Total District Revenue</i>	Sum of all water and sewer rate based revenue from the District generated during the 12 months prior to the effective date of transfer of the Service Transfer Area.
<i>Outstanding District Indebtedness</i>	The total outstanding District Indebtedness as of the effective date of the transfer of service area, but excluding that portion of any outstanding District Indebtedness that Everett has an already-existing obligation to pay.

(b) Payment. Everett shall pay the Service Transfer Area's Share of Outstanding District Indebtedness either by single lump sum payment or by debt service payments.

(i) Lump Sum. If Everett elects to make the lump sum payment, then Everett shall pay the District an amount equal to the Service Transfer Area's Share of District Indebtedness not later than 90 days from the effective date of transfer. Effective upon such lump sum payment, Everett has no further obligations in connection with the Service Transfer Area regarding Outstanding District Indebtedness.

(ii) Debt Service Payments. If Everett instead elects to make debt service payments to the District, then Everett shall, no later than thirty (30) days prior to any date on which the District is obligated to make a payment on Outstanding District Indebtedness, pay the District an amount equal to Everett's pro-rata amount of such District payment calculated in accordance with the Service Transfer Area's Share of Outstanding District Indebtedness. In the event of a refunding of all or part of Outstanding District Indebtedness, the amount and due dates of Everett's periodic payments will be adjusted to share in the benefits of the refunding.

(c) District Remains Responsible for Other Indebtedness. Everett is not responsible under this Agreement for District Indebtedness that is not a Service Transfer Area's Share of Outstanding District Indebtedness for the District.

(5) Assumption of District Contracts. Everett has no obligation to assume or to accept assignment of any District contracts except as required by RCW 35.13A.050 and as such statute may be modified or superseded, provided Everett shall assume and accept assignment of (a) "latecomers" agreements pursuant to Chapter 57.22 RCW relating to property transferred to Everett under Section 7.B.& C. above and (b) contracts where Everett has previously provided the District with written acknowledgement signed by the Everett Public Works Director stating that Everett will assume and accept assignment of that contract. Everett

shall assume and accept assignment of such “latecomer” agreements and “acknowledged” contracts as of the effective date of the transfer of the Service Transfer Area. However, as provided in Section 4.E., the District shall not enter into any contract that would obligate the District to send sewage from within Everett’s UGA, as it exists as of the Effective Date of this Agreement as identified in Exhibit A, to an entity other than Everett. Accordingly, the Parties agree that Everett will have no obligation to assume or to accept assignment of any such District contract, including, for example, contracts that would purport to require Everett to deliver sewage from within Everett’s UGA, as it exists as of the Effective Date of this Agreement as identified in Exhibit A, for treatment elsewhere than the EWPCF.

(6) Adjustment of District Capacity Rights. Effective on the date of transfer of a Service Transfer Area, the District Capacity Right for each Everett Capacity Facility will automatically adjust in accordance with the equation below. After such transfer date, the District shall pay the District’s decreased share of capital costs, as calculated in accordance with Section 5.B of this Agreement.

District Capacity Right for Everett Capacity Facility as of Transfer of Service Transfer Area =

$$\begin{aligned} & \text{District Capacity Right for Everett Capacity Facility Immediately Before Transfer} - \\ & (\text{Reduction Factor for Everett Capacity Facility}) \times (\text{Service Transfer Area CE's}) \end{aligned}$$

Variable	Definition	
<i>Service Transfer Area Customer Equivalents</i>	<p>Service Transfer Area customer equivalents as of the effective date of transfer of the Service Transfer Area, which is the number of single family residences in the Service Transfer Area, plus the total monthly average water usage of all other metered usage within the Service Transfer Area (based on the average monthly water usage during the 12-month period prior to the effective date of the transfer of the Service Transfer Area), divided 900 cubic feet per month, <i>i.e.</i>,</p> <p><i>Service Transfer Area CE's =</i></p> $\text{Single Family Residences} + \frac{\text{Other Total Monthly Average Water Usage}}{900}$	
<i>Reduction Factor for Everett Capacity Facility</i>	<i>Everett Capacity Facility</i>	<i>Reduction Factor</i>
	South End Interceptor Extension from SMH 2085Y06 to SMH 2085Z08	$\frac{831}{21,050}$
	South End Interceptor Extension from SMH 2085Z08 to SMH 2085Z07	$\frac{5400}{21,050}$
	South End Interceptor Extension from SMH 2085Z07 to South End Interceptor South Segment SMH	$\frac{11,500}{21,050}$

0885J02 (Shadow Wood Screen)	
South End Interceptor South Segment from SMH 0885Z02 (Shadow Wood Screen) to South End Interceptor North Segment (upstream end of SML 0585C0A)	11,500 21,050
South End Interceptor North Segment (upstream end of SML 0585C0A) to EWPCF's Headworks	11,500 21,050
Headworks at EWPCF	11,500 21,050
Sewage Treatment Plant (Everett Water Pollution Control Facility- EWPCF)	6.6 21,050
Note: 21,050 remains constant throughout the term of this Agreement. It is based on the number of District customer equivalents estimated to be within the District Everett Sewer Basin by the time of full build-out of the District's service area, all as set forth in the District's Sewer Comprehensive Plan dated April 11, 2011.	

(7) Withdrawal of Service Transfer Area from District. As of the effective date of the transfer of a Service Transfer Area, Everett and the District shall take all necessary action to remove the transferred Service Transfer Area from the District's corporate area. Upon such removal: (a) the Service Transfer Area will cease to be part of the District's corporate area (b) the Service Transfer Area shall not be computed or included as part of the sixty (60) percent area or assessed valuation of real property within the District for the purposes of any future assumption by Everett of the entire District not included within another city as provided in RCW 35.13A.030 or successor statute.

(8) District Reservation of Capacity in Facilities within Service Transfer Areas. If on the effective date of transfer of a Service Transfer Area such Service Transfer Area contains District facilities transferred to Everett that serve any portion of other Service Transfer Areas not yet transferred to Everett, then, pursuant to RCW 35.13A.050 and as such statute may be modified or superseded, Everett shall for the economically useful life of such transferred facilities make available to the District sufficient capacity in such transferred facilities to serve the sewage or water requirements of Service Transfer Areas not yet transferred to Everett. Provided, in compensation for such use of transferred facilities, the District shall pay Everett based on the same methodology used when Everett pays the District for use of District facilities under Section 6.F of this Agreement.

(9) District Special Basin Benefit Charges. Beginning on the effective date of the transfer of Service Transfer Area Six, Everett shall collect the District Special Basin Benefit Charges as set forth in then existing or future District resolutions for each new sewer connection in Service Transfer Area Six. Everett shall remit to the District all such charges that Everett collects

D. Reservoir No. 3 and Agreements Regarding Water.

The Parties acknowledge that it is in the best financial and water system planning interests of each Party to share water storage in District's Reservoir No. 3, which as of the Effective Date of this Agreement serves customers in Service Transfer Areas One through Four, plus approximately 620 Everett customers. The following provisions govern the Parties' obligations with respect to Reservoir No. 3:

(1) **Reservoir Ownership.** As of the effective date of the transfer of Service Transfer Area One, Reservoir No. 3 becomes the property of Everett, and Everett is responsible for its operation and maintenance.

(2) **Determination of Capacity Share.** The Parties acknowledge and agree that the water storage capacity of Reservoir No. 3 is four million two hundred thousand gallons (4.2 MG). The table below shows the capacity requirements for the Service Transfer Areas and existing Everett customers as of the Effective Date of this Agreement. Accordingly, as of the Effective Date of this Agreement, Everett's capacity share of Reservoir No. 3 is 0.43MG (which is a percentage share of 10.37%), and the District's capacity share of Reservoir No. 3 is 3.77 MG (which is a percentage share of 89.63%).

Service Transfer Area	Water Connections	Percentage Share (%)	Reservoir No 3 Capacity Share (MG)
1	1,819	30.44 %	1.28
2	869	14.54%	0.61
3	551	9.22%	0.39
4	2,117	35.43%	1.49
Existing Everett Customers as of Effective Date of Agreement (Estimate)	620	10.37%	0.43
Total	5,976	100%	4.2

(3) **Adjustment of Capacity Share after Transfer of Service Transfer Area.** Effective upon the transfer of a Service Transfer Area from the District to Everett, the capacity share of Reservoir No. 3 for that Service Transfer Area will transfer to Everett. (For example, as of the effective date of transfer of Service Transfer Area One, Everett's capacity share of Reservoir No. 3 will be 1.71 MG (which is a percentage share of 40.81%), and the District's capacity share of Reservoir No. 3 will be 2.49 MG (which is a percentage share of 59.19%)).

(4) **Shared Operation and Maintenance Costs.** Beginning on the Effective Date of this Agreement, the Parties shall share the annual operation and maintenance costs and capital costs for Reservoir No. 3, including extraordinary costs such as for reservoir recoating. Each Party's share of all such costs will be calculated in accordance with their percentage shares

of Reservoir No. 3 at the time that the cost is incurred. The owner of Reservoir No. 3 shall inform the other Party of any extraordinary operation and maintenance or capital cost before it is undertaken by the owner. The owner shall invoice the other Party for the other Party's portion of such operation and maintenance cost or capital cost at the end of each calendar year, shall provide documentation of such total maintenance and operation cost incurred the prior year, and then the other Party shall pay the owner the other Party's share of such costs within sixty (60) days of the receipt of such invoice, except for any disputed costs.

(5) Master Meter Relocation. Promptly after the effective date of transfer of any Service Transfer Area, the Parties shall relocate the master meter(s) to the new connection point(s) between Everett and District water supply systems, as mutually agreed to by the Parties. The Parties shall equally share the cost of the relocation of the master meter(s).

(6) Charge for Water. The District shall pay Everett for all water delivered to the District at Everett's then-current rate for retail single family customers. The District may withdraw its capacity share in Reservoir No. 3 through the master meter(s) referenced above over a twenty-four (24) hour period (midnight to midnight) and use such capacity for any purpose without incurring an Everett peaking charge, standby charge, or other penalty or charge. If the District uses more than its capacity share in Reservoir No. 3 during such a twenty-four (24) hour period, the District shall pay Everett for the overage at twice the then-current Everett rate for retail single family customers. (The 2013 Everett rate for retail single family customers was \$1.74/ccf or \$2300/MG.)

(7) Murphy's Corner Standby Connection. The Parties acknowledge and agree that there is a connection at Murphy's Corner (19th Avenue SE & 132nd Avenue SE) that allows either Party to open valving to provide extra water for its water system in an emergency. If Everett uses any water from this connection, Everett shall pay the District for the water used at twice the current District rate for retail single family customers. (The 2013 District rate is \$1.75-2.20/ccf or \$2340-2940/MG.) If the District uses water from this connection, the District shall pay Everett for the water used according to Section 7. D. (6).

(8) Regulatory Water Storage Requirements. As of the Effective Date of this Agreement, the Parties may use and report its respective capacity share in Reservoir No. 3 to state and federal public agencies with jurisdiction to satisfy regulatory requirements, including but not limited to water system plan requirements enforced or imposed by the Washington State Department of Health.

E. Operational Procedures and Principles.

This Section 7.E contains general operational rules and procedures which have been observed by the Parties in connection with providing water service to areas within the District which have been annexed by Everett prior to the Effective Date of this Agreement. It is the Parties' intent to set forth these general rules and procedures and be guided by them in the continued future operation of both Everett's and the District's water systems. It is not the intent of the Parties that the following principles should cover every circumstance, but rather that such principles and procedures should be adhered to when applicable and that instances not included

below should be administered in a manner generally in keeping with the policies of both Parties and settled in a manner which is fair and reasonable.

(1) Master Meters. As described above in Section 7.D(5), the Parties shall make the necessary revisions required to, as completely as practicable, place or relocate the “master meters” through which the District may continue to purchase its water directly from Everett. If it is determined by the Parties that “master metering” of the total water supply provided to the District is impractical (particularly with reference to customers along the common boundary line between Everett and the District), then Everett may periodically read the meters necessary to completely account for all water supplied to the District and add or subtract, as the case may be, such readings to (or from) the appropriate “master meter” reading to arrive at the correct total water consumption of the District. As a matter of convenience, the District shall provide to Everett at Everett’s request individual customer meter readings taken by the District for purposes of billing District customers, as Everett determines that such meter readings are necessary to supplement or correct the “master meter” consumption readings.

(2) Water Mains. Except as otherwise provided in this Agreement, if a water main is located in a street (or right-of-way or easement) contiguous to the boundary line separating areas served by Everett from areas served by the District and the water main is a common water main serving both Everett and District customers, then the following subsections will govern the water main:

(a) The Party in whose area the water main is physically located owns the water main and is solely responsible to operate and maintain the water main at that Party’s sole expense. For the purposes of this subsection (2), this Party is referred to as the “**Water Main Owner**” and the other Party is the “**Water Main Non-Owner.**”

(b) If a customer of the Water Main Non-Owner desires installation of new water service on the water main, then the Water Main Owner shall provide the required labor and materials to complete the service installation in accordance with the Water Main Non-Owner’s requirements. The Water Main Non-Owner shall pay the Water Main Owner for the actual cost of such service installation. The Water Main Non-Owner shall maintain all customer relations and contacts, including the application for service, turn-ons, shut-offs, and subsequent billings for water service. The Water Main Owner owns the installed water service from the water main to the water meter as of the initial turn-on, and the Water Main Non-Owner shall reimburse the Water Main Owner for the costs of operation and maintenance of the installed service. The procedure in this subsection (b) applies to individual, residential and nominal sized commercial services. In the event a service of any classification is requested which is two (2) inches in diameter or larger, or a service which is intended to serve more than one residence or commercial structure, the Parties shall first determine whether the supply of water available at the proposed point of connection is sufficient to provide adequate water service for the proposed connection before the installation of such connection may be undertaken.

(a) In the event certain operational or other problems of mutual concern occur which cannot be remedied by reference to this Agreement, then the Parties agree

to attempt to resolve such problems in a manner which will be neither detrimental nor harmful to either Party from an operational or financial viewpoint

F. Court Decision Regarding Section 7.

The parties acknowledge and agree that this Section 7 represents an interconnected and negotiated agreement regarding annexation and transfer matters. Accordingly, if the Snohomish County Superior Court or other court of competent jurisdiction renders a final decision holding that any portion of this Section 7 is contrary to law or otherwise unenforceable, and the time for appeal of such decision has passed or any appeal of such decision has been concluded and such decision was substantially affirmed on appeal (the “**Final Court Decision**”), then Section 7 shall be terminated in accordance with and to the degree required to comply with such Final Court Decision. In the event Section 7 is so terminated, in whole or in part, both Parties shall have the right within ninety (90) days after the Final Court Decision to request in writing from the other party further amendments to Section 7 to modify and amend as appropriate the terms that have been found to be unenforceable, and the Parties will seek to resolve the request within 180 days after delivery of the request (such 180 days, the “**Request Resolution Period**”). In the event the Parties do not reach agreement on such further amendment(s) of Section 7 within the Request Resolution Period, then the request for amendment will be resolved by the arbitration process set forth in Section 8.B.(3) (c)-(f), with such arbitration limited to Section 7 and with all provisions of Section 7 deemed to be Adjustment Provisions for the purposes of the arbitration. However, Section 8.B.(3)(c) - (f) are modified for the purposes of the arbitration as follows: 8.B.(3)(c) is modified so that the deadline for the Arbitration Notice is thirty (30) days after the expiration of the Request Resolution Period and Section 8.B.(3)(e) is modified so that the adjustment decision may be retroactive back no earlier than the date of the Final Court Decision.

8. MID-TERM REOPENER MEETING AND ARBITRATION

A. Mid-Term Re-opener Meeting. During the first quarter of 2040, the Parties shall meet face-to-face at least twice to discuss in good faith possible revisions to this Agreement. If the Parties come to agreement, the Parties will execute an amendment this Agreement.

B. Equitable Adjustment by Arbitration.

(1) Arbitration Purpose. The Parties have agreed to the arbitration provisions in this Section 8.B in order to create a mechanism at the mid-term of the Agreement (that is, in 2040) for equitable adjustment of certain provisions of this Agreement, in the event that either Party believes that amendments arising from the mid-term re-opener meeting in Section 8.A above are insufficient. The Parties acknowledge and agree that this Agreement, among other things, is intended to allocate costs between the ratepayers of Everett and the ratepayers of the District. Through extensive negotiation, the Parties have attempted to define in this Agreement certain equations and formulas that will accomplish this. However, the parties recognize that they cannot anticipate all future circumstances, particularly in light of the fifty-year term of this Agreement.

(2) Adjustment Provisions. The following provisions of this Agreement (the “**Adjustment Provisions**”) are the only provisions subject to equitable adjustment by arbitration:

(a) Capacity Price. Exhibit D is subject to equitable adjustment. The Parties acknowledge and agree that Exhibit D is intended to calculate a fair price for capacity in Everett Capacity Facilities.

(b) Capital Costs. The Agreed Capacity of each Everett Capacity Facility in Section 5.B is subject to equitable adjustment. The parties agree that the Agreed Capacity is intended to operate to create a fair District percentage share of capital costs for each Everett Capacity Facility.

(c) Use of the Other Party's Facilities. The compensation formula in Section 6.F and Section 7.C (8) is subject to equitable adjustment. The Parties acknowledge and agree that the formula is intended to fairly allocate maintenance and operation costs between the Parties for use of facilities.

(d) District Indebtedness. The formula for calculation of Service Transfer Area's Share of Outstanding District Indebtedness in Section 7.C (4) is subject to equitable adjustment. The Parties acknowledge and agree that such calculation is intended to transfer to Everett a fair prorated share of the District's debt upon the transfer of a Service Transfer Area to Everett.

(e) Reservoir No. 3. The formula for calculation of the Party's shares of costs related to Reservoir No. 3 under Section 7.D (4) is subject to equitable adjustment. The Parties acknowledge and agree that the formula is intended to fairly allocate costs between the Parties for Reservoir No. 3.

(f) Stormwater Reduction Percentage. The *Flow Cost %*, *BOD Cost %*, *TSS Cost %*, and *FOG Cost %*, which are all contained in Exhibit G, are each subject to equitable adjustment. The Parties acknowledge and agree that these are intended to allocate costs correctly between the Flow Component, BOD Component, and TSS Component, and the FOG Component, as such terms are defined in Exhibit G.

(g) 900 cf/month as Equivalent Residential Unit. This Agreement uses 900 cf/month in three equations: District CEs (Section 5.C (2)), Monthly M&O Charge (Section 5.C (4)), and Service Transfer Area Customer Equivalents (Section 7.C (6)). The Parties agree that 900 cf/month is the current assumption for an equivalent residential unit and is subject to equitable adjustment, either upward or downward. The Parties acknowledge and agree 900 cf/month is intended to be a reasonable and widely used number representing an equivalent residential unit, as used in the sewer utility industry.

(3) Process for Arbitration.

(a) Adjustment Notice. If a Party desires equitable adjustment by arbitration, the Party shall provide notice to the other Party (the "***Adjustment Notice***") no earlier than July 1, 2040 and no later than September 30, 2040. Any notice delivered outside of such notice periods is ineffective.

(b) Negotiation. Upon delivery of the Adjustment Notice, the Parties shall in good faith negotiate, with the object of agreeing to an amendment to the Adjustment Provisions.

(c) Arbitration Notice. If the Parties are unable to agree to an amendment to the Adjustment Provisions after delivery of the Adjustment Notice, then either Party may, no later November 15, 2040, provide notice to the other Party that it desires arbitration. An arbitration notice delivered after such date shall not be effective. The arbitration will be conducted by a three member panel. The Parties shall each select one panel member, and those two panel members will select the third panel member. Each Party shall pay the costs of its chosen arbitrator, with all other arbitration costs split evenly between the Parties.

(d) Scope of Panel Authority. The arbitration panel's authority is limited to adjustment of the operation of the Adjustment Provisions, with object of adjustment only as necessary to cause the Adjustment Provisions to operate fairly and equitably between the Parties and their ratepayers. With respect to rebuttal, the arbitration panel shall give the greater weight to relevant law, circumstances and facts that have changed or become known since the Effective Date of the Agreement (or the effective date of amendments to the Agreement, as applicable).

(e) Adjustment Decision. The arbitration panel shall promptly issue an adjustment decision, which shall include specific adjustments to the Adjustment Provisions, along with supporting reasoning. The adjustment decision takes effect upon issuance and has the same effect as an amendment to this Agreement. An adjustment decision is prospective only and has no retroactive effect, unless the arbitration panel determines that the Adjustment Provisions have caused clear, significant and unavoidable past unfairness, in which case the adjustment decision may as determined by the arbitrator be retroactive back no earlier than December 31, 2035. Unless otherwise provided by the adjustment decision, the adjustment decision is effective until the end of the term of the Agreement. However, the Parties may revise or terminate an adjustment decision by mutual agreement contained in an amendment to this Agreement.

(f) Post-Arbitration Proceedings. The adjustment decision is binding on the Parties. Proceedings after the issuance of the adjustment decision (such as appeals or motions to vacate or modify the decision) will be governed by Chapter 7.04A RCW or successor statute.

9. DEFAULT

A. Breach of Obligation to Pay Money.

A Party is in default of this Agreement if it fails to pay money when due under this Agreement, the Party has failed to dispute the amount owing by written notice to the other Party, and the failure continues for a period of thirty (30) days after notice of default delivered by

the non-defaulting Party. If the default is not cured within such thirty (30) days, the non-defaulting Party may:

(1) Terminate this Agreement by delivering to the defaulting Party a notice of intent to terminate, which must include a termination date not earlier than ninety (90) days after delivery of the notice of intent to terminate. If the default is not cured before the termination date, then this Agreement terminates on the termination date.

(2) If the defaulting Party is the District, Everett may exercise one, some or all of the following options:

(a) Everett may require that District not allow any new connections upstream of the Connection Point; or

(b) Everett may require that District cure its default by transferring to Everett unused District Capacity Rights that have equivalent value to the amount of money that the District is in default, when the value of the unused District Capacity Rights is determined by using the same methodology as shown in Exhibit D attached.

Nothing in Section 9.A (2) limits Everett's right to terminate this Agreement in accordance with Section 9.A (1) if District remains in default after the exercise of an option under Section 9.A (2). The rights granted the Parties under this Section 9.A are in addition to any other remedy the non-defaulting Party may have at law or equity.

B. Other Breaches.

A Party is in default of this Agreement if it breaches any provision of this Agreement other than an obligation to pay money and such breach continues for a period of thirty (30) days after notice of default delivered by the non-defaulting Party, except that, if the cure cannot be reasonably completed within the thirty (30) day period, the breaching Party is not in default if it commences in good faith to cure the breach within the thirty (30) day period and thereafter diligently proceeds to complete the cure.

(1) If the breach is a breach of Section 6 of this Agreement and after such thirty (30) days the defaulting Party remains in default or is not diligently proceeding to complete the cure, the non-defaulting Party may terminate this Agreement by delivering to the defaulting Party a notice of intent to terminate, which must include a termination date not earlier than one hundred-twenty (120) days after delivery of the notice of intent to terminate. If the default is not cured before the termination date, then this Agreement terminates on the termination date. This right of termination is in addition to any other remedy the non-defaulting Party may have at law or equity.

(2) If the breach is not a breach of Section 6 or 9A of this Agreement and after such thirty (30) days the defaulting Party remains in default or is not diligently proceeding to complete the cure, then the non-defaulting Party has all remedies available at law or equity, except that the non-defaulting Party may not seek to terminate this Agreement.

C. Force Majeure.

If a Party to this Agreement is unable to perform its obligations under this Agreement because of acts of God, war, civil commotion, riots, strikes, picketing, other labor disputes, damage to work in progress by reason of fire or other casualty, severe weather or any other cause beyond the reasonable control of that Party (a “*Force Majeure Event*”), that Party shall promptly deliver written notice to the other and shall do everything reasonably possible to resume performance of its obligations under this Agreement. Effective upon delivery of the written notice, that delivering Party will be excused from its performance of its obligations under this Agreement for a reasonable period of time to the extent affected by the Force Majeure Event. Notwithstanding the foregoing, a Party’s obligations to pay money to the other Party or to indemnify or defend the other Party shall not be excused for any period of time by a Force Majeure Event and always remain in full force and effect.

10. **INDEMNITY**

A. General Indemnity. To the extent of a Party's breach of this Agreement, willful violation of applicable state or federal laws, rules or regulations, gross negligence or intentional misconduct, each Party shall defend and indemnify the other Party and its officers, employees and agents, from any and all Claims arising from or relating to this Agreement. This indemnity and defense obligation is in addition to any other indemnity or defense obligation that a Party may have under this Agreement.

B. RCW 4.24.115 / Title 51 RCW. With respect to any portions of this Agreement subject to RCW 4.24.115, in the event of any concurrent negligence on the part of Everett or any of its contractors, subcontractors, or agents, and District, or any of its contractors, subcontractors, or agents, the indemnification obligations of the indemnitor under this Agreement shall be valid and enforceable only to the extent of the negligence of the indemnitor. To the extent that the indemnity provisions of this Agreement apply, the Parties specifically and expressly waive their immunity under Industrial Insurance, Title 51 RCW, and acknowledge that this waiver was mutually negotiated by Parties.

11. **MISCELLANEOUS PROVISIONS.**

A. Governing Law. The laws of the State of Washington, without giving effect to principles of conflict of laws, shall govern all matters arising out of or relating to this Agreement.

B. Venue. Everett and District shall bring any litigation arising out of or relating to this Agreement only before the Snohomish County Superior Court. **THE PARTIES HEREBY WAIVE THEIR RIGHTS TO TRIAL BY JURY IN ANY LITIGATION BETWEEN THE PARTIES ARISING FROM OR RELATING TO THIS AGREEMENT.**

C. Complete Agreement. This Agreement constitutes the entire agreement of the Everett and District relating to the subject matter of this Agreement. This Agreement supersedes and replaces all other written or oral agreements thereto.

D. Amendment. No amendment to this Agreement will be effective unless it is in

writing and signed by Everett and District, with the Mayor signing for the Everett and an authorized representative signing for the District.

E. Waiver. No waiver of satisfaction of any condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation.

F. Severability. Except as provided in Section 7.F, if any provision of this Agreement is unenforceable to any extent, the remainder of this Agreement, or the application of that provision to any persons or circumstances other than those as to which it is held unenforceable, will not be affected by that unenforceability and will be enforceable to the fullest extent permitted by law.

G. Notice. For a notice under this Agreement to be valid, it must be in writing and the sending party must use one of the following methods of delivery: (A) personal delivery to the address stated below; (B) first class postage prepaid U.S. Mail to the address stated below; or (C) nationally recognized courier to the address stated below, with all fees prepaid.

Notice to Everett	Notice to District
Public Works Director City of Everett 3200 Cedar St. Everett, WA 98201	General Manager Silver Lake Water and Sewer District 15205 - 41st Ave. SE Bothell, WA 98012-6114

A Party may change its address stated above by delivering written notice to the other Party of the new address.

H. Assignment/Dissolution. Except as provided in Section 4.F, no part of this Agreement or any rights, duties, or obligations described in this Agreement may be assigned or delegated to another without the express written consent of both Everett and District, which may be denied in either Party's sole discretion. Neither Party may terminate its obligations under this Agreement without the consent of the other Party.

I. Successors. This Agreement shall be binding upon Everett and District and their respective successors.

J. Relinquishment and Termination of Old Agreements. As of the Effective Date of this Agreement, the Parties relinquish, extinguish, terminate and release the 1982 Sewage Agreement and the 1991 Annexation Agreement and the rights and obligations set forth in those agreements, and the terms and conditions of the 1982 Sewage Agreement and 1991 Annexation Agreement shall have no further force and effect, except for (1) any indemnity obligations contained in such agreements regarding occurrences prior to the Effective Date of this Agreement, (2) any provisions in either agreement that such agreement designates as surviving agreement termination, and (3) as necessary to enforce the District's obligations under Sections 5.B(1) and 5.C(6) of this Agreement. For purposes of clarity, the District agrees that

this Section 11.J includes a complete release of any claim or other right against Everett that the District may have in relation to the Everett \$30.67 monthly sewer rate effective April 1, 2014, through March 31, 2015, including claims described in the District's letter to the City disputing such rate dated May 19, 2014.

K. Consent. Whenever it is provided in this Agreement that the consent or approval of either Party is required, in each such instance such consent or approval shall not be unreasonably withheld, unless this Agreement expressly states that such consent or approval is at that Party's sole discretion. If a Party fails to respond to request for consent or approval within sixty (60) days after delivery of the request, then the requesting Party may deliver a notice of second request to the other Party at the address in Section 11.G., stating that the request will be deemed consented to and approved unless the other Party responds within thirty (30) days after the second request. If the other Party does not respond with such thirty (30) days, then the request shall be deemed consented to and approved. This Section 11.K. does not apply to requests for amendments of this Agreement.

L. Duty to Disclose. Each Party shall disclose to the other Party any major financial, economic planning, regulatory or operational changes or issues when such changes or issues become actually known to the disclosing Party. Such disclosures may include, but are not limited to, changes in accounting practices; rate calculation variables; federal or state regulatory mandates, orders or directives; and revisions or changes in capital project scopes that have major financial, transmission or capacity impacts on the other Party. Each Party shall notify the other Party in writing of such change or issue as soon as practicable and shall provide the other Party a reasonable time to review, evaluate and meet with Party representatives to discuss any such changes or issues. Each Party shall provide the other Party with all reasonably requested information and documentation to assist the Party in its review process. Regardless of the foregoing, in no event will any breach of this Section 11.L. by a Party operate to relieve the other Party of the other Party's obligations to comply with all provisions of this Agreement, including without limitation all obligations to accept sewage or to pay money under this Agreement.

M. Recitals Incorporated by Reference. The Recitals set forth above are incorporated into this Agreement in full by this reference.

N. No Third Party Beneficiaries. Except as expressly set forth in this Agreement, nothing in this Agreement is intended to confer upon any person or entity, other than the Parties hereto, any rights, benefits, privileges or obligations. No such third-party shall have any right to enforce any of the terms of this Agreement unless expressly stated otherwise.

O. Exhibits Incorporated by Reference. Exhibits A, B, C, D, E, F, G and H attached to this Agreement and are incorporated by reference as if set forth in full in this Agreement.

P. Survival. The following Sections survive termination of this Agreement: Sections 4.C.(3), 4.D.(3), 6.D, and 10.

Q. Records. Everett and the District shall keep books and records in order to establish rates, volumes of sewage delivered and discharged into the Everett sewer system

wherever such volumes are measured, total volumes of sewage transmitted and treated by Everett facilities, and the number of residential customers and residential customer equivalents reported by Everett and District. The books and records required by this paragraph shall be available for examination by either Party during normal business hours for a period of seven (7) years upon fifteen (15) days prior written notice.

R. Compliance with the Washington State Public Records Act. Both Everett and District are subject to the Public Records Act, chapter 42.56 RCW. All records owned, used or retained by the Parties are public records subject to disclosure unless exempt under the Public Records Act, whether or not such records are in the possession or control of Everett or District. The Parties shall cooperate with each other so that the each Party may comply with all of its obligations under the Public Records Act.

S. Recording. The District shall record this Agreement with the Snohomish County Auditor following its execution by the Parties. The Parties shall evenly split the recording fee.

[Signature page follows]

**SILVER LAKE WATER AND
SEWER DISTRICT ("DISTRICT")**



PRESIDENT

ATTEST:



SECRETARY

APPROVED AS TO FORM:



DISTRICT ATTORNEY

CITY OF EVERETT ("EVERETT")



MAYOR

ATTEST:

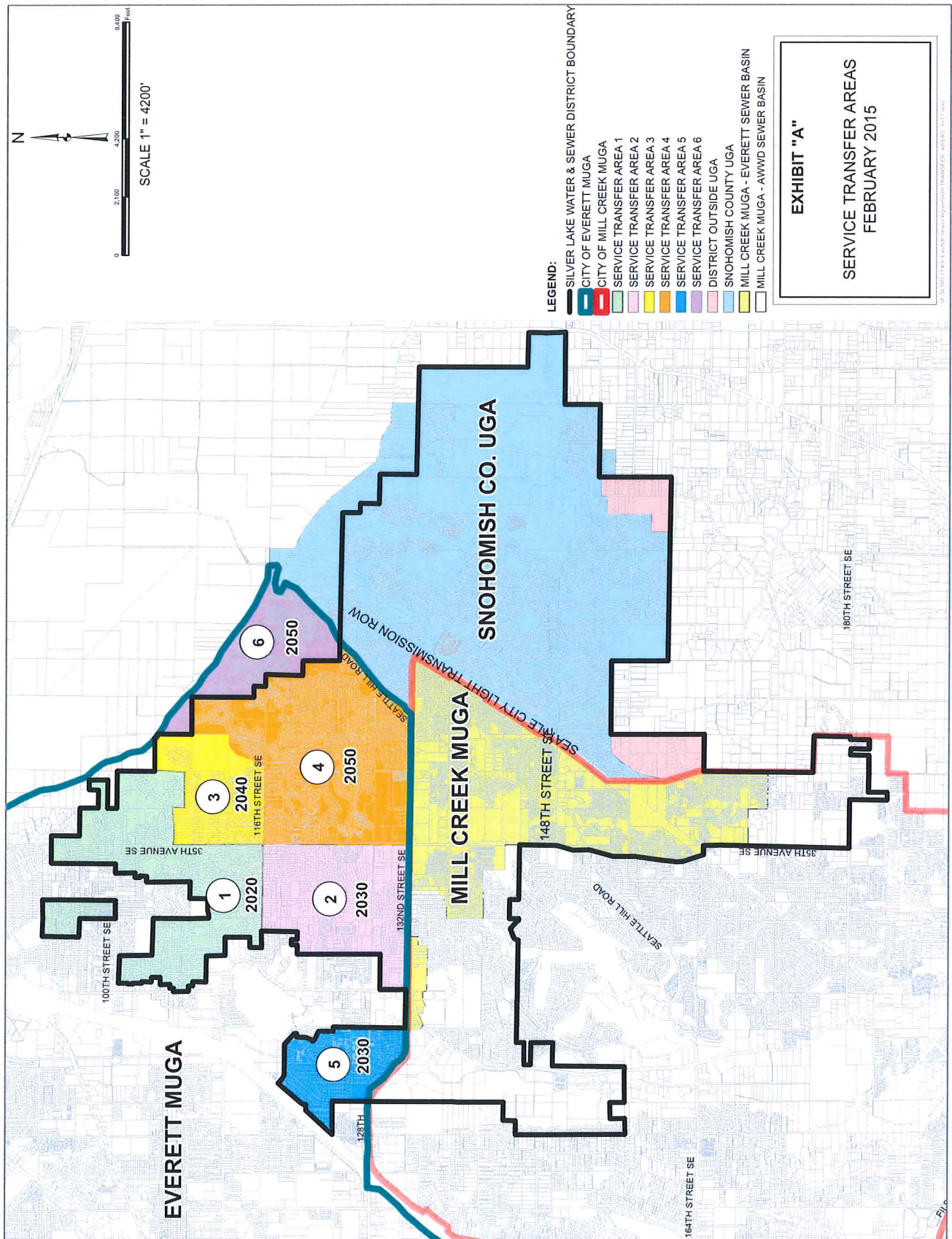


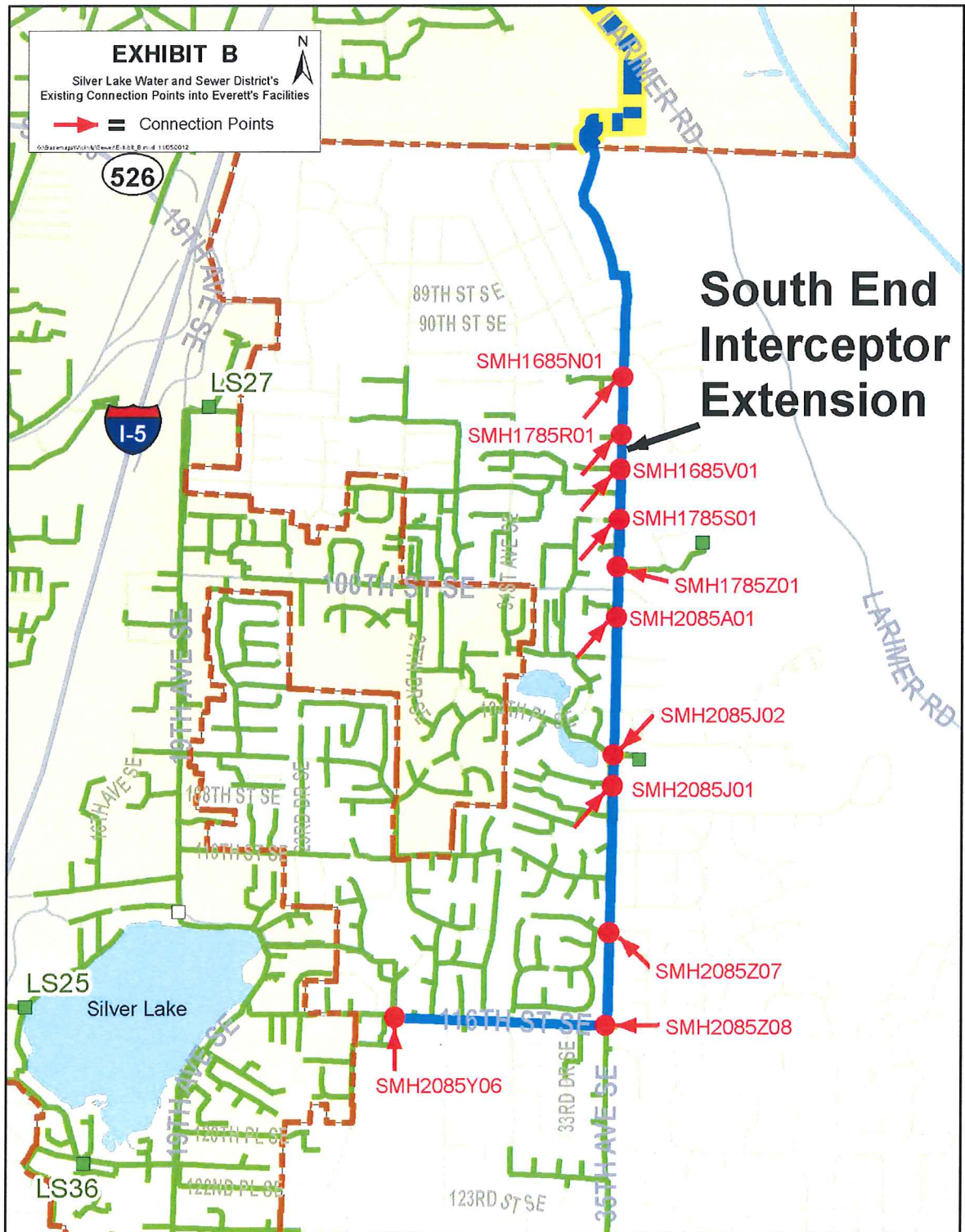
CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY





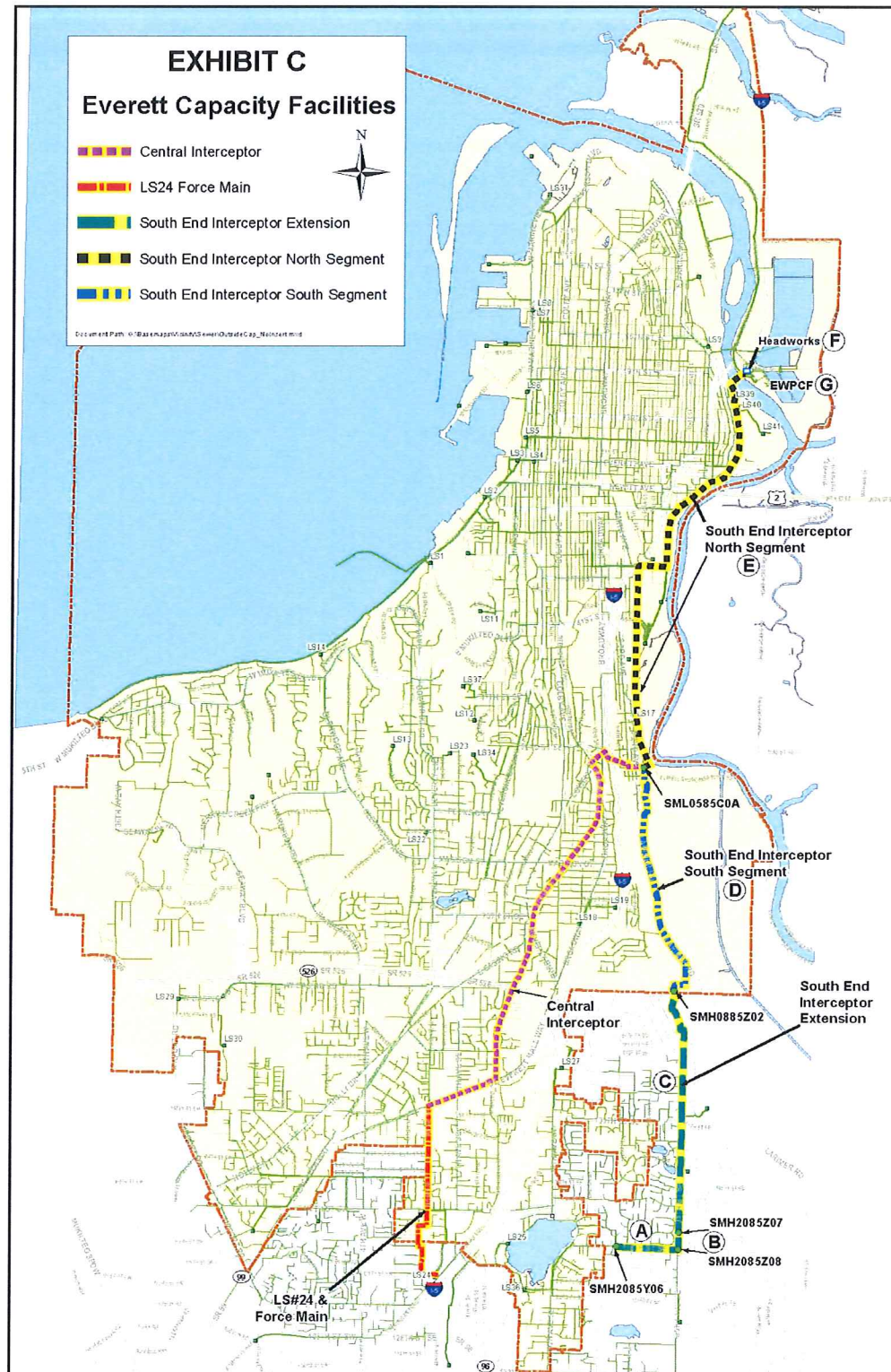


EXHIBIT D

PURCHASE, SALE OR LEASE OF CAPACITY

I. Purchase by District of Additional District Capacity Rights in an Everett Capacity Facility

A. Definitions

“Asset Value” is the non-depreciated book value for an asset that is part of an Everett Capacity Facility, calculated at the time of the completion of construction of the asset.

“Asset Other Funding” is the amount of funding used by Everett in connection with the design and construction of an asset that is part of an Everett Capacity Facility from sources other than Everett utility revenue bonds or Everett utility revenues. Asset Other Funding includes without limitation federal and state grants, capital cost contributions from Everett’s wholesale customers or from developers or other persons, and funding through Local Improvement District (LID) assessments. Asset Other Funding also includes the non-depreciated book value of any asset donated to Everett that is part of the Everett Capacity Facility, calculated as of the date of donation. Asset Other Funding does not include connection charges paid to Everett by retail customers.

“Net Asset Value” for an asset is the difference between Asset Value and Asset Other Funding, *i.e.*, $\text{Net Asset Value} = \text{Asset Value} - \text{Asset Other Funding}$.

“Total Net Current Value” is the sum total of all Net Asset Values for all assets that are part of an Everett Capacity Facility.

“Total Interest” is the sum total of all simple interest on the Net Asset Values of all assets that are part of an Everett Capacity Facility, calculated for up to ten (10) years for each such asset based on the interest rates available to Everett at the time of construction of the asset. However, Total Interest cannot exceed Total Net Current Value. If Total Interest exceeds Total Net Current Value, then Total Interest is deemed to equal Total Net Current Value.

“Net Total Capacity” is the total capacity of the Everett Capacity Facility less the Capacity Rights that have been purchased by others, at the time that the District purchases additional District Capacity Rights.

“Additional District Capacity Rights” is the amount of additional District Capacity Rights being purchased by the District.

- B. Purchase Price Equation. The purchase price of capacity in an Everett Capacity Facility is calculated as follows:

$$\text{Purchase Price} = (\text{Total Net Current Value} + \text{Total Interest}) \times \frac{\text{Additional District Capacity Rights}}{\text{Net Total Capacity}}$$

II. Purchase by Everett of District Capacity Rights in an Everett Capacity Facility

A. Definitions

“District Capital Contribution” is a capital cost contribution made by the District to Everett in connection with the design and construction of an asset that is part of an Everett Capacity Facility.

“District Other Funding” is the amount funding used by the District to make the District Capital Contribution for an asset that is part of an Everett Capacity Facility from sources other than District utility revenue bonds or District utility revenues. Other Funding includes without limitation federal and state grants, and funding through Local Improvement District (LID) assessments.

“Net District Capital Contribution” for an asset is the difference between District Capital Contribution and District Other Funding, *i.e.*, Net District Capital Contribution = District Capital Contribution – District Other Funding.

“Total Net District Capital Contribution” is the sum total of all Net District Capital Contributions for all assets that comprise an Everett Capacity Facility.

“Total Interest” is the sum total of all interest on the Net District Capital Contributions of all assets are part of an Everett Capacity Facility, calculated for up to ten (10) years on each Net District Capital Contribution based on the interest rate available to the District at the time of the District Capital Contribution. However, Total Interest cannot exceed Total Net District Capital Contribution. If Total Interest exceeds the Total Net District Capital Contribution, then Total Interest is deemed to equal the Total Net District Capital Contribution.

“Total District Capacity Rights” is the total current District Capacity Rights in the Everett Capacity Facility, including the amount of District Capacity Rights being purchased by Everett.

“District Capacity Rights To Be Purchased” is the amount of District Capacity Rights being purchased by Everett.

“Total Useful Life” is the total useful life of the Everett Capacity Facility, beginning on the date it entered service and ending on the reasonably calculated date when it will leave service.

- B. Purchase Price Equation. The purchase price of capacity in an Everett Capacity Facility is calculated as follows:

$$\text{Purchase Price} = (\text{Total Net District Capital Contribution} + \text{Total Interest}) \times \frac{\text{District Capacity Rights To Be Purchased}}{\text{Total District Capacity Rights}}$$

- C. Lease Rate Equation. In order to calculate the annual lease rate for an amount of District Capacity Rights, first calculate the purchase price for the to-be-leased District Capacity Rights in accordance with II.B above. Using that purchase price, the annual lease rate to be paid by Everett for District Capacity Rights in an Everett Capacity Facility is:

$$\text{Annual Lease Rate} = \frac{\text{Purchase Price}}{\text{Total Useful Life}}$$

Exhibit E
EWPCF – HEADWORKS

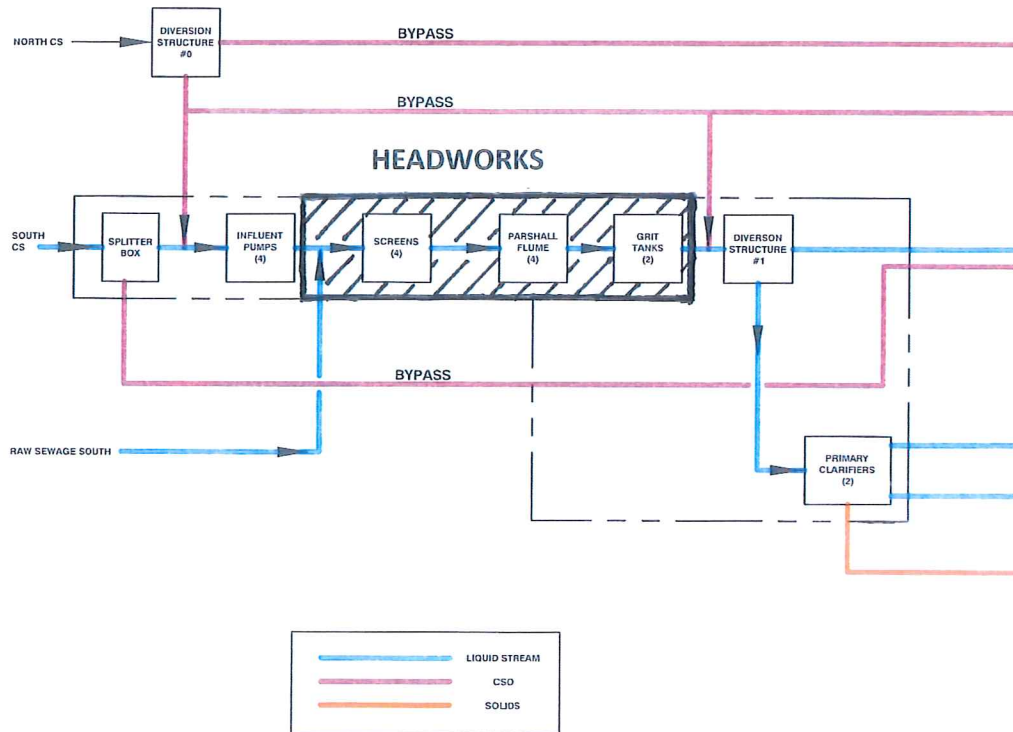


EXHIBIT F

STORMWATER POLICY AND PROCEDURE FOR SEPARATING COSTS

Below is Everett's policy for separating stormwater capital costs and sewer capital costs. As set forth in Section 5.C.(3)(a) of the Agreement, capital costs of stormwater facilities will be excluded from the Calculated Single Family Sewer Rate, and capital costs of sewer facilities will be included in the Calculated Single Family Sewer Rate.

For all capital facility projects that modify Everett's combined sewer system:

1. Stormwater Facilities. Those facilities that are installed to collect, store, convey or treat only stormwater are "stormwater facilities" to be paid for out of stormwater revenue.
2. Sewer Facilities. Any facility that collects, stores, conveys or treats water which includes any sewage are "sewer facilities" to be paid for out of sewer revenues. One example of a sewer facility is a CSO or combined sewer overflow.
3. Projects with a Stormwater Facility and a Sewer Facility. Where there is a project that includes both types of facilities, capital costs will be allocated between the project sewer facility and the project stormwater facility as follows:
 - Construction Bid Items. A separate bid schedule shall be used that states which project construction items are associated with the sewer facility and with the stormwater facility. Each schedule will include restoration costs associated with its respective type of facility. Costs of the sewer bid items are sewer facility costs, and costs of stormwater bid items are stormwater facility costs.
 - Non-Construction Bid Items. The costs of items not included in the separate bid schedules (*e.g.*, study, design, construction management, and joint construction costs like mobilization and restoration) shall be split where possible based on directly related costs. For example, the cost of design and permitting for restoration of a street where only a stormwater facility is being installed is a stormwater facility cost. If it is not possible or practicable to split any particular capital cost based on the method of directly related costs, then the stormwater facility portion of the entire project cost will equal the entire project cost multiplied by the total of the stormwater construction bid items divided by the entire project construction cost for both sewer and stormwater facilities.

EXHIBIT G

STORMWATER REDUCTION PERCENTAGE

As set forth in the definition of Shared Treatment and General Costs in Section 5.C.(2) of this Agreement, the Parties have agreed that the Shared Treatment and General Costs will be reduced to account for the percentage of the Shared Treatment and General Costs attributable to stormwater. This percentage is referred to as the Stormwater Reduction Percentage, which is defined as follows:

Stormwater Reduction Percentage =

(Flow Component × Flow Cost %) + (BOD Component × BOD Cost %) + (TSS Component × TSS Cost %) + (FOG Component × FOG Cost %)

Component Equations

$$\text{Flow Component} = \frac{Q_{\text{Annual}} - Q_{\text{Driest}}}{Q_{\text{Annual}}}$$

$$\text{BOD Component} = \frac{SW_{\text{BOD}} \times \text{Flow Component}}{\text{Influent BOD}}$$

$$\text{TSS Component} = \frac{SW_{\text{TSS}} \times \text{Flow Component}}{\text{Influent TSS}}$$

$$\text{FOG Component} = 0$$

The FOG Component relates to fats, oil, and grease. It is deemed to be 0 for the term of the Agreement.

Variable	Definition
<i>Q_{Annual}</i>	The five year daily average of the total volume of influent (in MGD) flowing into EWPCF. Q _{Annual} will be updated by Everett every five years based on average of trailing five years data, with the first update effective April 1, 2019, based on data from 2014 to 2018.
<i>Q_{Driest}</i>	The five year daily average of the total volume of influent (in MGD) flowing into EWPCF during driest calendar month of the calendar year. Driest calendar month is the month during which the EWPCF receives

	the least total influent by volume. <i>QDriest</i> will be updated by Everett every five years based on average of trailing five years data, with the first update effective April 1, 2019, based on data from 2014 to 2018.
<i>SWBOD</i>	Stormwater biological oxygen demand, as calculated in accordance with the methodology shown in the study completed by the Environmental Protection Agency (EPA) entitled Nationwide Urban Runoff Program (NURP) dated 1983. In this study, the SWBOD is 8 mg/l for mixed land use. Everett and District agree that this SWBOD number will be updated by Everett after each new EPA NURP study that determines a different SWBOD for mixed land use, with the SWBOD update effective at the same time that the five-year update of <i>QAnnual</i> and <i>QDriest</i> take effect.
<i>Influent BOD</i>	The five year average of the influent biological oxygen demand (in mg/l) in the influent flow into the EWPCF. As of the Effective Date of this Agreement, the Influent BOD is 297 mg/l, based on average of trailing five years data (2009-2013). Influent BOD will be updated by Everett every five years based on average of trailing five years data, with the first update effective April 1, 2019 based on data from 2014 to 2018.
<i>SWTSS</i>	Stormwater total suspended solids, as calculated in accordance with the methodology shown in the 1983 NURP. In the 1983 NURP study, the SWTSS is 67 mg/l for mixed land use. Everett and District agree that SWBOD number will updated by Everett after each new EPA NURP study that determines a different SWTSS for mixed land use, with the SWTSS update effective at the same time that the five-year update of <i>QAnnual</i> and <i>QDriest</i> take effect takes effect.
<i>Influent TSS</i>	The five year average of the TSS (in mg/l) in the influent flowing into the EWPCF. As of the Effective Date of this Agreement, the Influent TSS is 245 mg/l, based on average of trailing five years data (2009-2013). Influent TSS will be updated by Everett every five years based on average of trailing five years data, with the first update effective April 1, 2019 based on data from 2014 to 2018.
<i>Flow Cost %</i>	Percentage of total treatment cost attributable to flow. Fixed at 10% for entire term of Agreement, unless adjusted in accordance with Agreement Section 8.
<i>BOD Cost %</i>	Percentage of total treatment cost attributable to biological oxygen demand. Fixed at 55% for entire term of Agreement, unless adjusted in accordance with Agreement Section 8.
<i>TSS Cost %</i>	Percentage of total treatment cost attributable to total suspended solids. Fixed at 25% for entire term of Agreement, unless adjusted in accordance with Agreement Section 8.
<i>FOG Cost %</i>	Percentage of total treatment cost attributable to fats, oil, and grease. Fixed at 10% for entire term of Agreement, unless adjusted in accordance with Agreement Section 8.
<i>MGD</i>	million gallons per day

<i>BOD</i>	biological oxygen demand
<i>TSS</i>	total suspended solids
<i>mg/l</i>	mg/l = milligrams per liter

As of the Effective Date of this Agreement, the Stormwater Reduction Percentage is 5.32%, which is calculated as follows:

$$\text{Flow Component} = \frac{18.8 \text{ MGD} - 13.3 \text{ MGD}}{18.8 \text{ MGD}}$$

$$= 0.29$$

$$\text{BOD Component} = \frac{8 \text{ mg/l} \times 0.29}{297 \text{ mg/l}} = 0.008$$

$$\text{TSS Component} = \frac{67 \text{ mg/l} \times 0.29}{245 \text{ mg/l}} = 0.079$$

$$\text{FOG Component} = 0$$

Stormwater Reduction Percentage =

$$(0.29 \times 10\%) + (0.008 \times 55\%) + (0.079 \times 25\%) + (0 \times 10\%) = 5.32\%$$

EXHIBIT H

PAYMENTS BASED ON CYCLE EVERETT REVENUE THRESHOLD FACTOR

A. Introduction

Every four years, the Parties will calculate whether either Party is entitled to a payment from the other Party based on the calculation of the Cycle Everett Revenue Threshold Factor. The calculation of the Cycle Everett Revenue Threshold Factor is defined and described in detail below in Section B. The Cycle Everett Revenue Threshold Factor is a percentage that reflects the relationship between Everett sewer service revenue and Everett sewer expenses during the preceding four years (*i.e.*, a four year cycle). For example, a Cycle Everett Revenue Threshold Factor equal to 100% generally represents a situation where Everett sewer service revenue and Everett sewer expenses were equal during the preceding four years. A Cycle Everett Revenue Threshold Factor less than 100% generally means that Everett sewer service expenses exceeded sewer service revenues. A Cycle Everett Revenue Threshold Factor more than 100% generally means that Everett service revenues exceeded sewer expenses. All of this, including what counts for the purposes of determining revenues and expenses in the calculation of the Cycle Everett Revenue Threshold Factor, is described in Section B.

The Parties have agreed that, if Cycle Everett Revenue Threshold Factor is less than 100%, then Everett is owed payment from the District. The Parties have also agreed that, if Cycle Everett Revenue Threshold Factor is more than 115%, then the District is owed payment from Everett. If the Cycle Everett Revenue Threshold Factor lies in between those percentages, then no payment is owed. Section C sets forth how such payments are calculated. Finally, Section D contains examples of calculations, with Example 1 as a situation where the Cycle Everett Revenue Threshold Factor is more than 115%, and Example 2 as a situation where Cycle Everett Revenue Threshold Factor is less than 100%.

B. Calculation of Cycle Everett Revenue Threshold Factor

Cycle Everett Revenue Threshold Factor =

$$\left[\frac{(\text{Cycle Net Everett Sewer Service Revenue})}{(\text{Cycle Net Everett Sewer Expenses})} \right] \times 100\%$$

Example References: In Example 1 in Section D, the Cycle Everett Revenue Threshold Factor is $\$127,325,669.36 / \$110,396,360.91 \times 100\% = 115.3350\%$. In Example 2 in Section D, the Cycle Everett Revenue Threshold Factor is $\$109,986,360.94 / \$110,396,360.91 = 99.629\%$.

Calculation of Numerator and Denominator of Cycle Everett Revenue Threshold Factor

Numerator: Cycle Net Everett Sewer Service Revenue

Cycle Net Everett Sewer Service Revenue

$$\begin{aligned}
 &= (\text{Total Everett Sewer Service Revenue}_{\text{year1}} - \text{Everett Multiplier Revenue}_{\text{year1}}) \\
 &+ (\text{Total Everett Sewer Service Revenue}_{\text{year2}} - \text{Everett Multiplier Revenue}_{\text{year2}}) \\
 &+ (\text{Total Everett Sewer Service Revenue}_{\text{year3}} - \text{Everett Multiplier Revenue}_{\text{year3}}) \\
 &+ (\text{Total Everett Sewer Service Revenue}_{\text{year4}} - \text{Everett Multiplier Revenue}_{\text{year4}})
 \end{aligned}$$

Example References: In Example 1 in Section D, Cycle Net Everett Sewer Service Revenue is \$127,325,669.36. In Example 2 in Section D, Cycle Total Net Everett Sewer Service Revenue is \$109,986,986.94.

Variables in Cycle Net Everett Sewer Service Revenue	Definition																																		
<i>Total Everett Sewer Service Revenue</i>	<p>For a calendar year, the Total Everett Sewer Service Revenue is the annual total sewer service revenues collected by Everett as of December 31st of the calendar year, which is the sum of the following Everett BARS general ledger accounts or their successors:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">BARS Account</th><th style="text-align: left;">Account Description</th></tr> </thead> <tbody> <tr><td>3435010946401</td><td>Mukilteo Collection</td></tr> <tr><td>3435011146401</td><td>Mukilteo Treatment</td></tr> <tr><td>3435010946403</td><td>Alderwood Collection</td></tr> <tr><td>3435011146403</td><td>Alderwood Treatment</td></tr> <tr><td>3435010946405</td><td>Silver Lake Collection</td></tr> <tr><td>3435011146405</td><td>Silver Lake Treatment</td></tr> <tr><td>3435111146000</td><td>Flat Rate Treatment</td></tr> <tr><td>3435110946000</td><td>Flat Rate-Coll. & Trnsn</td></tr> <tr><td>3435110946100</td><td>M.S./Gen-Col & Trnsn</td></tr> <tr><td>3435111146100</td><td>M.S./Gen-Treatment</td></tr> <tr><td>3435210900000</td><td>Self Service City - Cl & Tr</td></tr> <tr><td>3435211146100</td><td>Self Service City-Treatment</td></tr> <tr><td>3435011146407</td><td>Marysville Treatment</td></tr> <tr><td>3435411146100</td><td>High Strength Testing</td></tr> <tr><td>3435411146101</td><td>High Strength Permit/Compliance</td></tr> <tr><td>3437011142101</td><td>Comm. Hauler - Out City</td></tr> </tbody> </table> <p>Total Everett Sewer Service Revenue does not include Everett revenues received from new sewer connections permits, general facility services or other one time new connection services or fees. Total Everett Sewer Service Revenue does not include any payment paid under this <u>Exhibit H</u>.</p> <p>If Everett adds new sewer customers, then the Parties will review the above-listed BARS accounts (or their successors). The Parties will add accounts to the above list as necessary so</p>	BARS Account	Account Description	3435010946401	Mukilteo Collection	3435011146401	Mukilteo Treatment	3435010946403	Alderwood Collection	3435011146403	Alderwood Treatment	3435010946405	Silver Lake Collection	3435011146405	Silver Lake Treatment	3435111146000	Flat Rate Treatment	3435110946000	Flat Rate-Coll. & Trnsn	3435110946100	M.S./Gen-Col & Trnsn	3435111146100	M.S./Gen-Treatment	3435210900000	Self Service City - Cl & Tr	3435211146100	Self Service City-Treatment	3435011146407	Marysville Treatment	3435411146100	High Strength Testing	3435411146101	High Strength Permit/Compliance	3437011142101	Comm. Hauler - Out City
BARS Account	Account Description																																		
3435010946401	Mukilteo Collection																																		
3435011146401	Mukilteo Treatment																																		
3435010946403	Alderwood Collection																																		
3435011146403	Alderwood Treatment																																		
3435010946405	Silver Lake Collection																																		
3435011146405	Silver Lake Treatment																																		
3435111146000	Flat Rate Treatment																																		
3435110946000	Flat Rate-Coll. & Trnsn																																		
3435110946100	M.S./Gen-Col & Trnsn																																		
3435111146100	M.S./Gen-Treatment																																		
3435210900000	Self Service City - Cl & Tr																																		
3435211146100	Self Service City-Treatment																																		
3435011146407	Marysville Treatment																																		
3435411146100	High Strength Testing																																		
3435411146101	High Strength Permit/Compliance																																		
3437011142101	Comm. Hauler - Out City																																		

	<p>that the sewer service revenue received by Everett for the new customers are captured in the Total Everett Sewer Service Revenue to the same extent as existing Everett sewer customers.</p> <p>The Parties by mutual agreement may add or subtract BARS accounts (or their successors) from the list above by letter agreement, countersigned by the Mayor on behalf of Everett and an authorized District representative for the District.</p>														
<i>Everett Multiplier Revenue</i>	<p>For each calendar year, Everett Multiplier Revenue is defined as :</p> <p><i>Total Everett Wholesale Sewer Service Revenue – (Total Everett Wholesale Sewer Service Revenue)/(1.2)</i></p> <p>For a calendar year, Total Everett Wholesale Service Revenue is the sum of the following BARS accounts or their successors:</p> <table> <tr> <th>BARS Account</th><th>Account Description</th></tr> <tr> <td>3435010946401</td><td>Mukilteo Collection</td></tr> <tr> <td>3435011146401</td><td>Mukilteo Treatment</td></tr> <tr> <td>3435010946403</td><td>Alderwood Collection</td></tr> <tr> <td>3435011146403</td><td>Alderwood Treatment</td></tr> <tr> <td>3435010946405</td><td>Silver Lake Collection</td></tr> <tr> <td>3435011146405</td><td>Silver Lake Treatment</td></tr> </table> <p>If Everett adds new wholesale sewer customers, then the Parties will review the above-listed BARS accounts (or their successors). The Parties will add accounts to the above list as necessary so that the sewer service revenue received by Everett for the new wholesale customers are captured in the Total Everett Wholesale Service Revenue to the same extent as existing Everett wholesale sewer customers.</p> <p>The Parties by mutual agreement may add or subtract BARS accounts (or their successors) from the list above by letter agreement, countersigned by the Mayor on behalf of Everett and an authorized District representative for the District</p>	BARS Account	Account Description	3435010946401	Mukilteo Collection	3435011146401	Mukilteo Treatment	3435010946403	Alderwood Collection	3435011146403	Alderwood Treatment	3435010946405	Silver Lake Collection	3435011146405	Silver Lake Treatment
BARS Account	Account Description														
3435010946401	Mukilteo Collection														
3435011146401	Mukilteo Treatment														
3435010946403	Alderwood Collection														
3435011146403	Alderwood Treatment														
3435010946405	Silver Lake Collection														
3435011146405	Silver Lake Treatment														
Denominator: Cycle Net Everett Sewer Expenses															
<p><i>Cycle Net Everett Sewer Expenses</i></p> $= (Total\ Everett\ Sewer\ Expenses_{year1} + Principal_{year1} - Total\ Sewer\ Expense\ Adjustment_{year1})$ $+ (Total\ Everett\ Sewer\ Expenses_{year2} + Principal_{year2} - Total\ Sewer\ Expense\ Adjustment_{year2})$ $+ (Total\ Everett\ Sewer\ Expenses_{year3} + Principal_{year3} - Total\ Sewer\ Expense\ Adjustment_{year3})$ $+ (Total\ Everett\ Sewer\ Expenses_{year4} + Principal_{year4} - Total\ Sewer\ Expense\ Adjustment_{year4})$ <p><u>Example References:</u> In Example 1 and in Example 2 in Section D, Cycle Net Everett Sewer Expenses is \$110,396,360.91.</p>															

Variables in Cycle Net Everett Sewer Expenses	Definition		
Total Everett Sewer Expenses	For a calendar year, the Total Everett Sewer Expenses is the annual sum of the following functions or their successors:		
	Function	Function Description	Percentage of Function Included in Total Everett Sewer Expenses
	109	Sewer Collection	100%
	111	Sewer Treatment	100%
	112	Biosolids Management	100%
	113	Industrial Pretreatment	100%
	133	Construction Inspection-Sewer	100%
	935	Records Management	50%
	Total Everett Sewer Expenses does not include any payment paid under this Exhibit H. The Parties by mutual agreement may add or subtract items (or their successors) from the list above by letter agreement, countersigned by the Mayor on behalf of Everett and an authorized District representative for the District		
Principal	For a calendar year, Principal is the sum of all principal payments that Everett made on sewer-related indebtedness.		
Total Sewer Expense Adjustment	For a calendar year, the Total Sewer Expense Adjustment is the annual sum of the following BARS accounts or their successors:		
	Item	Description	
	BARS Account 900	Connection fees transferred to Construction Fund	
	BARS Account 403	Depreciation	
	BARS Account 404	Amortization	
	The Parties by mutual agreement may add or subtract items (or their successors) from the list above by letter agreement, countersigned by the Mayor on behalf of Everett and an authorized District representative for the District.		

C. Determination of Payments Based on Cycle Everett Revenue Threshold Factor

1. Annual Data Sharing During the Four-Year Cycle. By April 1st of each calendar year, Everett will provide the District the previous calendar year's Total Everett Sewer Service Revenue, Total Everett Sewer Expenses, Principal and the Total Sewer Expense Adjustment, all based on unaudited financial statements. Once such calculations for a calendar year are complete, the calculations will not be later adjusted.

2. Time of Calculation of Cycle Everett Revenue Threshold Factor. Once every four years beginning in 2016, Everett will calculate and provide to the District the Cycle Everett Revenue Threshold Factor based on the preceding four years. This calculation and delivery must occur no later than the April 1st of the calendar year after completion of the four-year cycle. For example, no later than April 1, 2016, Everett will calculate the Cycle Everett Revenue Threshold Factor for the preceding four years, with 2012 as year one, 2013 as year two, 2014 as year three,

and 2015 as year four. Additional Cycle Everett Revenue Threshold Factors will be calculated by April 1, 2020, April 1, 2024, and each four years after that, until the expiration or termination of this Agreement. If the Agreement expires or terminates and four years has not elapsed since the last calculation of a Cycle Everett Revenue Threshold Factor, then the four year cycle will be shortened to fit, and Everett will calculate the Cycle Everett Revenue Threshold Factor using only the data for the years since that last calculation.

3. Payment Obligations. Based on the Cycle Everett Revenue Threshold Factor, the Parties are obligated to pay as follows:

Cycle Everett Revenue Threshold Factor	Payment Obligation
Greater than 115%	Everett obligated to pay District as calculated under Section C.4 below
Less than 100%	District obligated to pay Everett as calculated under Section C.5 below
Less than or equal to 115% and greater than or equal to 100%	No payment obligation

4. Calculation of Everett Payment Obligation

Everett Payment Obligation =

(Cycle Everett Revenue from Charges to District) × (Cycle Everett Revenue Threshold Factor – 115%)

Example Reference: In Example 1 in Section D, the Everett Payment Obligation is \$84,373.57, based on a Cycle Everett Revenue from Services to District of \$25,184,336.50, and a Cycle Everett Revenue Threshold Factor of 115.335%.

Variable	Definition				
<i>Cycle Everett Revenue from Services to District</i>	<p>Cycle Everett Revenue from Services to District is the sum of the following BARS accounts or their successors, when totaled for the four years of the cycle:</p> <table> <tr> <td>3435010946405</td><td>Silver Lake Collection</td></tr> <tr> <td>3435011146405</td><td>Silver Lake Treatment</td></tr> </table> <p><u>Example Reference:</u> In Example 1 in Section D, the Cycle Everett Revenue from Services to District is \$25,184,336.50.</p>	3435010946405	Silver Lake Collection	3435011146405	Silver Lake Treatment
3435010946405	Silver Lake Collection				
3435011146405	Silver Lake Treatment				

5. Calculation of District Payment Obligation

District Payment Obligation =

(Cycle Everett Revenue from Charges to District) × (100% – Cycle Everett Revenue Threshold Factor)

Example Reference: In Example 2 in Section D, the District Payment Obligation is \$80,671.72, based on a Cycle Everett Revenue from Services to District of \$21,754,837.84, and a Cycle Everett Revenue Threshold Factor of 99.6292%.

6. When Payment Due

All payments under this Exhibit H are due within ninety days after the delivery of the calculation of the Cycle Everett Revenue Threshold Factor to the District.

D. Examples

Example 1 - Cycle Everett Revenue Threshold Factor Greater than 115%

	Cycle Years				Cycle Total
	Example Year 1	Example Year 2	Example Year 3	Example Year 4	
Mukilteo Water and Wastewater District	\$ 657,790.69	\$ 780,468.65	\$ 881,929.58	\$ 1,029,469.96	\$ 3,349,658.88
Alderwood Water and Waste Water District	\$ 1,915,797.83	\$ 2,273,094.13	\$ 2,568,596.36	\$ 2,998,303.78	\$ 9,755,792.10
Silver Lake Water and Sewer District	\$ 4,945,584.81	\$ 5,867,936.38	\$ 6,630,768.11	\$ 7,740,047.20	\$ 25,184,336.50
Everett	\$ 18,737,654.80	\$ 22,232,227.42	\$ 25,122,416.98	\$ 29,325,213.93	\$ 95,417,513.13
Total Everett Sewer Service Revenue	\$ 26,256,828.13	\$ 31,153,726.58	\$ 35,203,711.03	\$ 41,093,034.87	\$ 133,707,300.61
Less Sewer Multiplier Revenue	\$ (1,253,195.56)	\$ (1,486,916.53)	\$ (1,680,215.68)	\$ (1,961,303.49)	\$ (6,381,631.25)
Net Everett Sewer Service Revenue	\$ 25,003,632.58	\$ 29,666,810.05	\$ 33,523,495.36	\$ 39,131,731.38	\$ 127,325,669.36
BARS Division 109, 111, 112	\$ 27,209,215.00	\$ 30,229,437.87	\$ 31,136,321.00	\$ 33,899,318.83	\$ 122,474,292.70
BARS Division 113, 133, and 50% 935	\$ 782,901.93	\$ 869,804.04	\$ 895,898.17	\$ 975,399.04	\$ 3,524,003.18
Total Everett Sewer Expenses	\$ 27,992,116.93	\$ 31,099,241.91	\$ 32,032,219.17	\$ 34,874,717.87	\$ 125,998,295.88
Annual Principal Payment	\$ 2,578,080.63	\$ 2,864,247.58	\$ 2,950,175.01	\$ 3,211,969.81	\$ 11,604,473.03
Less Everett Connection 900	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (4,175,248.00)
Less Depreciation 403 & 404	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (23,031,160.00)
Net Everett Sewer Expenses	\$ 23,768,595.56	\$ 27,161,887.49	\$ 28,180,792.18	\$ 31,285,085.68	\$ 110,396,360.91
Cycle Everett Revenue Threshold Factor					115.335%

Cycle Everett Revenue Threshold Factor	115.3350%
Threshold	115.0000%
Difference	0.00335
Cycle Everett Revenue from Charges to District (Not Multiplier Portion)	\$ 20,986,947.08

Example 2 - Cycle Everett Revenue Threshold Factor Under 100%

	Cycle Years				Cycle Total
	Example Year 1	Example Year 2	Example Year 3	Example Year 4	
Mukilteo Water and Wastewater District	\$ 657,790.69	\$ 702,931.58	\$ 738,078.15	\$ 794,715.78	\$ 2,893,516.20
Alderwood Water and Waste Water District	\$ 1,915,797.83	\$ 2,047,269.46	\$ 2,149,632.93	\$ 2,314,588.51	\$ 8,427,288.73
Silver Lake Water and Sewer District	\$ 4,945,584.81	\$ 5,284,975.57	\$ 5,549,224.35	\$ 5,975,053.11	\$ 21,754,837.84
Everett	\$ 18,737,654.80	\$ 20,023,526.36	\$ 21,024,702.68	\$ 22,638,067.46	\$ 82,423,951.30
Total Everett Sewer Service Revenue	\$ 26,256,828.13	\$ 28,058,702.97	\$ 29,461,638.11	\$ 31,722,424.86	\$ 115,499,594.07
Less Sewer Multiplier Revenue	\$ (1,253,195.56)	\$ (1,339,196.10)	\$ (1,406,155.91)	\$ (1,514,059.57)	\$ (5,512,607.13)
Net Everett Sewer Service Revenue	\$ 25,003,632.58	\$ 26,719,506.87	\$ 28,055,482.21	\$ 30,208,365.29	\$ 109,986,986.94
BARS Division 109, 111, 112	\$ 27,209,215.00	\$ 30,229,437.87	\$ 31,136,321.00	\$ 33,899,318.83	\$ 122,474,292.70
BARS Division 113, 133, and 50% 935	\$ 782,901.93	\$ 869,804.04	\$ 895,898.17	\$ 975,399.04	\$ 3,524,003.18
Total Everett Sewer Expenses	\$ 27,992,116.93	\$ 31,099,241.91	\$ 32,032,219.17	\$ 34,874,717.87	\$ 125,998,295.88
Annual Principal Payment	\$ 2,578,080.63	\$ 2,864,247.58	\$ 2,950,175.01	\$ 3,211,969.81	\$ 11,604,473.03
Less Everett Connection 900	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (1,043,812.00)	\$ (4,175,248.00)
Less Depreciation 403 & 404	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (5,757,790.00)	\$ (23,031,160.00)
Net Everett Sewer Expenses	\$ 23,768,595.56	\$ 27,161,887.49	\$ 28,180,792.18	\$ 31,285,085.68	\$ 110,396,360.91
Cycle Everett Revenue Threshold Factor					99.629%

Cycle Everett Revenue Threshold Factor	Threshold
	100.0000%
Difference	99.6292%
	0.00371

Cycle Everett Revenue from Charges to District (Not Multiplier Portion)	\$ 18,129,031.53
Multiplied by 0.00371	\$ 67,226.43
Cycle Everett Revenue from Charges to District (Multiplier Portion)	\$ 3,625,806.31
Multiplied by 0.00371	\$ 13,445.29
District Payment Obligation	\$ 80,671.72

Agreement

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Sewage and Annexation
Agreement between City of
Everett and Silver Lake Water
and Sewer District

3/18

3/25

Briefing
Proposed Action
Consent
Action
First Reading
Second Reading
Third Reading
Public Hearing
Budget Advisory

COUNCIL BILL #

Originating Department

Contact Person

Phone Number

FOR AGENDA OF

Public Works

Jim Miller

425-257-8880

3/18 & 3/25/15

Initialed by:

Department Head

CAA

Council President



Location

Seateast Everett, north
of 132nd St SE

Preceding Action

Attachments

Agreement

Department(s) Approval

Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s): N/A
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The present 1982 agreement for sewage disposal between the City of Everett and Silver Lake Water and Sewer District (SLWSD) provides that either party may give notice of its intent to continue after 2010. Both parties mutually agreed to continue delivery of sewage by the District and receipt by the City. We have been negotiating new terms and conditions and have developed a new agreement which we are recommending for approval at this time.

The key features in addition to the basic issues are:

1. The term of the agreement is 50 years with a review after 25 years.
2. There is a revised rate methodology to ensure that SLWSD is not charged for stormwater expenses.
3. There is a provision a special payment to or from the City if a certain revenue vs. expenses threshold is met.
4. There is a method of scheduled transfer of annexed service areas within Everett's Urban Growth Area. Six transfer areas are assigned specific years in the future (e.g. 2020). As a general rule, if the City annexes more than 60% of these areas, the transfer of the area's utilities to Everett would be at the annexation date or the assigned area year, whichever is later.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Sewage and Annexation Agreement between City of Everett and Silver Lake Water and Sewer District.

*Council Approved
on 3/25/15 - SJ*